# IOWA ADMINISTRATIVE BULLETIN

*Published Biweekly* VOLUME XXV NUMBER 20
April 2, 2003 Pages 1281 to 1356


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PUBLISHED UNDER AUTHORITY OF IOWA CODE SECTIONS 2B.5 AND 17A.6

# PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.


| | | |
|---|---|---|
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# SUBSCRIPTION INFORMATION

## Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

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| July 1, 2002, to June 30, 2003 | $277.50 plus $16.65 sales tax |
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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

| | |
|---|---|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1(249A) | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)"a" | (Paragraph) |
| 441 IAC 79.1(1)"a"(1) | (Subparagraph) |

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

# Schedule for Rule Making
# 2003

| NOTICE SUBMISSION DEADLINE | NOTICE PUB. DATE | HEARING OR COMMENTS 20 DAYS | FIRST POSSIBLE ADOPTION DATE 35 DAYS | ADOPTED FILING DEADLINE | ADOPTED PUB. DATE | FIRST POSSIBLE EFFECTIVE DATE | POSSIBLE EXPIRATION OF NOTICE 180 DAYS |
|---|---|---|---|---|---|---|---|
| Jan. 3 '03 | Jan. 22 '03 | Feb. 11 '03 | Feb. 26 '03 | Feb. 28 '03 | Mar. 19 '03 | Apr. 23 '03 | July 21 '03 |
| Jan. 17 | Feb. 5 | Feb. 25 | Mar. 12 | Mar. 14 | Apr. 2 | May 7 | Aug. 4 |
| Jan. 31 | Feb. 19 | Mar. 11 | Mar. 26 | Mar. 28 | Apr. 16 | May 21 | Aug. 18 |
| Feb. 14 | Mar. 5 | Mar. 25 | Apr. 9 | Apr. 11 | Apr. 30 | June 4 | Sept. 1 |
| Feb. 28 | Mar. 19 | Apr. 8 | Apr. 23 | Apr. 25 | May 14 | June 18 | Sept. 15 |
| Mar. 14 | Apr. 2 | Apr. 22 | May 7 | May 9 | May 28 | July 2 | Sept. 29 |
| Mar. 28 | Apr. 16 | May 6 | May 21 | May 23 | June 11 | July 16 | Oct. 13 |
| Apr. 11 | Apr. 30 | May 20 | June 4 | June 6 | June 25 | July 30 | Oct. 27 |
| Apr. 25 | May 14 | June 3 | June 18 | June 20 | July 9 | Aug. 13 | Nov. 10 |
| May 9 | May 28 | June 17 | July 2 | July 4 | July 23 | Aug. 27 | Nov. 24 |
| May 23 | June 11 | July 1 | July 16 | July 18 | Aug. 6 | Sept. 10 | Dec. 8 |
| June 6 | June 25 | July 15 | July 30 | Aug. 1 | Aug. 20 | Sept. 24 | Dec. 22 |
| June 20 | July 9 | July 29 | Aug. 13 | Aug. 15 | Sept. 3 | Oct. 8 | Jan. 5 '04 |
| July 4 | July 23 | Aug. 12 | Aug. 27 | Aug. 29 | Sept. 17 | Oct. 22 | Jan. 19 '04 |
| July 18 | Aug. 6 | Aug. 26 | Sept. 10 | Sept. 12 | Oct. 1 | Nov. 5 | Feb. 2 '04 |
| Aug. 1 | Aug. 20 | Sept. 9 | Sept. 24 | Sept. 26 | Oct. 15 | Nov. 19 | Feb. 16 '04 |
| Aug. 15 | Sept. 3 | Sept. 23 | Oct. 8 | Oct. 10 | Oct. 29 | Dec. 3 | Mar. 1 '04 |
| Aug. 29 | Sept. 17 | Oct. 7 | Oct. 22 | Oct. 24 | Nov. 12 | Dec. 17 | Mar. 15 '04 |
| Sept. 12 | Oct. 1 | Oct. 21 | Nov. 5 | Nov. 7 | Nov. 26 | Dec. 31 | Mar. 29 '04 |
| Sept. 26 | Oct. 15 | Nov. 4 | Nov. 19 | ***Nov. 19*** | Dec. 10 | Jan. 14 '04 | Apr. 12 '04 |
| Oct. 10 | Oct. 29 | Nov. 18 | Dec. 3 | Dec. 5 | Dec. 24 | Jan. 28 '04 | Apr. 26 '04 |
| Oct. 24 | Nov. 12 | Dec. 2 | Dec. 17 | ***Dec. 17*** | Jan. 7 '04 | Feb. 11 '04 | May 10 '04 |
| Nov. 7 | Nov. 26 | Dec. 16 | Dec. 31 | Jan. 2 '04 | Jan. 21 '04 | Feb. 25 '04 | May 24 '04 |
| ***Nov. 19*** | Dec. 10 | Dec. 30 | Jan. 14 '04 | Jan. 16 '04 | Feb. 4 '04 | Mar. 10 '04 | June 7 '04 |
| Dec. 5 | Dec. 24 | Jan. 13 '04 | Jan. 28 '04 | Jan. 30 '04 | Feb. 18 '04 | Mar. 24 '04 | June 21 '04 |
| ***Dec. 17*** | Jan. 7 '04 | Jan. 27 '04 | Feb. 11 '04 | Feb. 13 '04 | Mar. 3 '04 | Apr. 7 '04 | July 5 '04 |
| Jan. 2 '04 | Jan. 21 '04 | Feb. 10 '04 | Feb. 25 '04 | Feb. 27 '04 | Mar. 17 '04 | Apr. 21 '04 | July 19 '04 |

**PRINTING SCHEDULE FOR IAB**

| ISSUE NUMBER | SUBMISSION DEADLINE | ISSUE DATE |
|---|---|---|
| **22** | **Friday, April 11, 2003** | **April 30, 2003** |
| **23** | **Friday, April 25, 2003** | **May 14, 2003** |
| **24** | **Friday, May 9, 2003** | **May 28, 2003** |

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

# PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 1.5.3, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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The Administrative Rules Review Committee will hold a special meeting on Monday, April 14, 2003, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

**NOTE: See also Agenda published in the March 19, 2003, Iowa Administrative Bulletin.**

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Embryo transfer—Iowa-foaled status, 62.37, Notice **ARC 2371B** . . . . . 4/2/03
Pseudorabies monitoring test, 64.156(2), Filed **ARC 2362B** . . . . . 4/2/03

## ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"
Dramshop liability insurance requirements,
5.8, 12.2(12), Filed **ARC 2385B** . . . . . 4/2/03

## AUDITOR OF STATE[81]

Fee structure for filing audits, 21.1(2), Notice **ARC 2384B** . . . . . 4/2/03

## EDUCATION DEPARTMENT[281]

Unsafe school choice option, adopt ch 11, Filed **ARC 2400B** . . . . . 4/2/03
Waiver of school fees—elimination of SSI guidelines as eligibility standard,
18.3(1)"a," Filed **ARC 2395B** . . . . . 4/2/03
Attendance centers, adopt ch 19, Notice **ARC 2399B** . . . . . 4/2/03
Minimum standards for community college-employed faculty, 21.3(1) to 21.3(6),
Notice **ARC 2398B** . . . . . 4/2/03
Approval of on-the-job training establishments and programs for qualified veterans,
ch 51, Filed **ARC 2397B** . . . . . 4/2/03
Approval of educational institutions for the education and training
of eligible veterans, ch 52, Filed **ARC 2376B** . . . . . 4/2/03
Teacher quality program, 83.2, 83.3(2), 83.3(3), 83.4, 83.4(9),
83.5, 83.6, Filed **ARC 2396B** . . . . . 4/2/03

## HUMAN SERVICES DEPARTMENT[441]

Family investment program eligibility under self-employment demonstration projects,
rescind ch 48, Filed **ARC 2394B** . . . . . 4/2/03
Food stamp eligibility for some legal immigrants, 65.37,
Filed Emergency After Notice **ARC 2401B** . . . . . 4/2/03
Extension of medicaid eligibility for expanded specified low-income medicare beneficiaries,
75.1(36), Filed Emergency **ARC 2402B** . . . . . 4/2/03
Medicaid reimbursement methodology for hospital inpatient and outpatient services
79.1(5)"a," 79.1(5)"c"(1) and (2), 79.1(5)"d"(1), 79.1(5)"e," 79.1(5) "f"(1),
79.1(5)"k," "m," "o" and "s," 79.1(16)"a," "b" and "d," 79.1(16)"e"(1),
79.1(16)"j," "k" and "p," Notice **ARC 2392B** . . . . . 4/2/03
Procedures for obtaining prior authorization for payment of medicaid services,
79.8(1), 80.2(1)"c" and "d," Notice **ARC 2390B** . . . . . 4/2/03
Non-state-owned nursing facilities—accountability measures used to determine
additional medicaid reimbursement, 81.6(16)"g"(2), 81.6(16)"g"(2)"1" and "2,"
81.6(16)"g"(8), 81.6(16)"g"(8)"1" and "2," Notice **ARC 2391B** . . . . . 4/2/03
Child care services—income eligibility determination, 130.3(3)"ab," Notice **ARC 2393B** . . . . . 4/2/03

## INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"
Unfair trade practices, ch 15 div I, 15.2, 15.3(1), 15.3(2)"c" and "h," 15.3(3),
15.3(4), 15.3(9)"b," 15.3(11) to 15.3(13), 15.5, 15.8(2)"c," 15.8(3), 15.9, 15.11(1)"a,"
15.11(1)"b"(1), 15.11(3), 15.11(3)"a," 15.11(4), 15.12(1), 15.13(3), 15.15 to 15.17,
ch 15 div II, 15.31, 15.32, 15.32(1)"a," 15.34 to 15.50, ch 15 div III, 15.51 to 15.60,
ch 15 div IV, 15.61 to 15.67, ch 15 appendixes II to IV, Notice **ARC 2364B** . . . . . 4/2/03

## IOWA FINANCE AUTHORITY[265]
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Multifamily preservation loan program—predevelopment loan fund, ch 3 title, ch 3 div I title, ch 3 div II, 3.20 to 3.27, Notice **ARC 2369B** . . . . . 4/2/03
Housing assistance fund, 15.8(1)"a"(4)"12," 15.8(3)"c"(2), Notice **ARC 2368B** . . . . . 4/2/03

## LABOR SERVICES DIVISION[875]
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Safety standards for exit routes, emergency action plans, and fire prevention plans, 10.20, Filed **ARC 2386B** . . . . . 4/2/03

## NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Wildlife violator compact, 15.13, Notice **ARC 2388B** . . . . . 4/2/03
Boats, all-terrain vehicles and snowmobiles—titling, registration and bonding, 20.3(7), 20.3(12) to 20.3(17), 38.6, 38.10, chs 46, 47, ch 50 title, 50.2, 50.7 to 50.9, Filed **ARC 2389B** . . . . . 4/2/03

## NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Fee for online renewal of license, 3.1, Notice **ARC 2375B** . . . . . 4/2/03
Delegation of nonlifesaving procedures to EMS personnel, 6.2(5)"c," Notice **ARC 2374B** . . . . . 4/2/03
LPNs at end-stage renal dialysis units—standards of practice, 6.3(4)"b" and "d," Notice **ARC 2372B** . . . . . 4/2/03
LPNs at WIC clinics—standards of practice, 6.6(6), Notice **ARC 2373B** . . . . . 4/2/03

## PERSONNEL DEPARTMENT[581]

IPERS, 21.4(1)"g," 21.4(4), 21.6(9)"b," "c" and "e," 21.8(5), 21.11(1), 21.11(2), 21.11(6), 21.24(18), Notice **ARC 2367B** . . . . . 4/2/03

## PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Dietetic examiners, 80.6(3), 80.6(4), 81.6, ch 83, Notice **ARC 2370B** . . . . . 4/2/03
Mortuary science examiners, ch 100 title, 100.1, 100.2(2), 100.3, 100.4, 100.4(1)"d," 100.5 to 100.10, 100.10(1)"a"(3), 100.10(1)"b"(3), 100.10(4)"a"(3), 100.10(5)"a," "d," "f" and "o," 100.10(8), 100.11, Filed **ARC 2366B** . . . . . 4/2/03

## PUBLIC HEALTH DEPARTMENT[641]

Backflow prevention assembly tester registration, ch 26, Filed **ARC 2380B** . . . . . 4/2/03
Radiation, 38.1(2), 38.2, 38.8(1)"e," 38.8(6)"b," 38.8(11)"a"(3), 39.1(3), 39.3(3)"f," 39.4(22)"d"(3)"13," 39.4(22)"d"(5), 39.4(29)"j"(1)"2" and "3," 39.4(29)"j"(2)"2," "4" and "5," 39.4(29)"j"(3), 39.4(29)"l"(3), 39.4(31)"c," 40.1(5), 40.32(1)"a," 40.60(4), 40.65(4)"a," 40.80(5), 40.97(1)"b"(3) to (6), ch 40 appendix A, 41.1(1), 41.1(2), 41.1(3)"a," 41.1(3)"a"(3)"1," 41.1(3)"a"(5)"2," 41.1(3)"a"(7), 41.1(3)"a"(8)"3," 41.1(3)"a"(11) and (12), 41.1(3)"f"(1)"2," 41.1(3)"f"(2)"1," 41.1(3)"g," 41.1(5)"c"(1)"1," "2" and "4" to "6," 41.1(5)"f"(4), 41.1(6)"a"(5), 41.1(6)"b"(1), 41.1(6)"b"(2)"2," 41.1(6)"d" and "e," 41.1(6)"g"(2), 41.1(6)"h"(1)"3," 41.1(11)"a," 41.1(11)"d"(1)"1," 41.1(11)"d"(2)"6," 41.2(1)"b," 41.2(4)"e," 41.2(11)"a"(5), 41.2(14)"f," 41.2(80), 41.2(87)"h," 41.2(88), 41.6(1), 41.6(2)"e," 41.6(3)"a"(2)"1," 41.6(5)"k"(5)"1," "3" and "10," 41.6(7)"b," 41.7(2)"e," 41.7(4)"b"(2), 41.7(4)"c," 41.7(5)"c," 41.7(7)"d"(2), 41.7(7)"f," ch 41 appendix C "15" to "18," 42.1(2), 42.2(2), 42.2(2)"e," 42.2(3)"e," 42.2(7), 42.2(8), 42.3(3)"a," 42.4(3)"d," 42.5(3)"d," 45.1(1)"b," 45.1(2), 45.1(6), 45.1(10)"a," 45.1(11), 45.1(12)"b"(1), 45.1(13), 45.1(17)"c" and "e," 45.2(4)"b" and "c," 45.3(2)"a," 45.3(6)"c" and "e," 45.6(17)"b" and "c," ch 45 appendix A, Filed **ARC 2377B** . . . . . 4/2/03
Local substitute medical decision-making boards, 85.3(1), Filed **ARC 2383B** . . . . . 4/2/03
Volunteer health care provider program, 88.1 to 88.3, 88.3(1), 88.3(2)"d," 88.3(3), 88.3(4)"e," 88.11, 88.12(1), 88.13(3)"d," Notice **ARC 2381B** . . . . . 4/2/03
Child protection center grant program, adopt ch 94, Filed **ARC 2382B** . . . . . 4/2/03

**PUBLIC SAFETY DEPARTMENT[661]**
Fire safety—hospitals and licensed health care facilities, 5.550 to 5.603, 5.626(1), 5.626(4), 5.900 to 5.925, Filed Emergency **ARC 2365B** . . . . . 4/2/03

**RACING AND GAMING COMMISSION[491]**
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Commission consideration of a deferred judgment as a conviction; quarter horse time trial races, 4.4(3)"d," 6.1, 6.2(1)"c"(1), 6.2(1)"j," 6.5(1)"d" to "f" and "h," 10.6(19), Notice **ARC 2363B** . . . . . 4/2/03

**UTILITIES DIVISION[199]**
COMMERCE DEPARTMENT[181]"umbrella"
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Gas pipeline and storage, ch 10 title, 10.1, 10.2(1), 10.4(1), 10.7, 10.8, 10.9(1), 10.12(1)"e" and "f," 10.18(1)"b" and "f," 10.20, 12.1, 12.7, ch 13 title, 13.1, 13.2(1), 13.4(1), 13.7, 13.8, 13.9(1), 13.12, 13.18(1)"b" and "e," 13.20, Notice **ARC 2379B** . . . . . 4/2/03

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.
**EDITOR'S NOTE: Terms ending April 30, 2003.**

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**Administrative Rules Coordinator**
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

To All Agencies:
The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)"b" by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

| AGENCY | HEARING LOCATION | DATE AND TIME OF HEARING |
|---|---|---|
| **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]** | | |
| Entrepreneurial ventures assistance program, 60.2, 60.4, 60.5, 60.7<br>IAB 3/19/03 **ARC 2360B** | 2nd Floor Northwest Conference Rm.<br>200 E. Grand Ave.<br>Des Moines, Iowa | April 8, 2003<br>2 p.m. |
| **EDUCATION DEPARTMENT[281]** | | |
| Attendance centers, ch 19<br>IAB 4/2/03 **ARC 2399B** | State Board Room, Second Floor<br>Grimes State Office Bldg.<br>Des Moines, Iowa | April 22, 2003<br>1 p.m. |
| Community college faculty, 21.3<br>IAB 4/2/03 **ARC 2398B**<br>**(ICN Network)** | Second Floor<br>Grimes State Office Bldg.<br>Des Moines, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Rm. 115, Industrial Tech. Bldg.<br>NICC, 1625 Hwy 150 South<br>Calmar, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 139, NICC-1<br>10250 Sundown Rd.<br>Peosta, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 106, Activity Center<br>NIACC, 500 College Dr.<br>Mason City, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 22, Library Bldg.<br>ILCC, 300 S. 18th St.<br>Estherville, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 818, Arthur and Audrey Smith Wellness Center<br>ILCC, 3200 College Dr.<br>Emmetsburg, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 410, Building D<br>NCC-2, 603 W. Park St.<br>Sheldon, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 204, Library Bldg.<br>Arrowhead AEA, 330 Ave. M<br>Fort Dodge, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 16, ICCC<br>916 N. Russell<br>Storm Lake, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Reg Johnson Hall 105<br>Ellsworth Community College<br>1100 College Ave.<br>Iowa Falls, Iowa | April 25, 2003<br>3 to 4 p.m. |

**EDUCATION DEPARTMENT[281]** (Cont'd)
**(ICN Network)**

| | | |
|---|---|---|
| | Room 806, Continuing Education Ctr.<br>IVCCD-1, 3702 S. Center St.<br>Marshalltown, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 110, Tama Hall<br>HCC-1, 1501 E. Orange Rd.<br>Waterloo, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 300, Kahl Educational Ctr.<br>EICCD-1, 326 W. Third St.<br>Davenport, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 60, Larson Hall<br>Muscatine Community College<br>152 Colorado St.<br>Muscatine, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 203B, Linn Hall<br>KCC-2, 6301 Kirkwood Blvd. SW<br>Cedar Rapids, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 8, Bldg. 6<br>DMACC, 2006 S. Ankeny Blvd.<br>Ankeny, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 925, Bldg. A<br>WITCC-1, 4647 Stone Ave.<br>Sioux City, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Looft Hall<br>IWCC-1, 2700 College Rd.<br>Council Bluffs, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 211, Instructional Ctr.<br>SWCC-1, 1501 W. Townline Rd.<br>Creston, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 107, Advanced Technology Ctr.<br>IHCC-1, 525 Grandview Ave.<br>Ottumwa, Iowa | April 25, 2003<br>3 to 4 p.m. |
| | Room 503, North Campus/Trustee Hall<br>SECC-1, 1500 W. Agency Rd.<br>West Burlington, Iowa | April 25, 2003<br>3 to 4 p.m. |

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

| | | |
|---|---|---|
| Fee for Title V permit,<br>22.106(1)<br>IAB 3/19/03 **ARC 2356B** | Conference Rooms 2-4<br>Air Quality Bureau<br>7900 Hickman Rd.<br>Urbandale, Iowa | April 8, 2003<br>1 p.m. |
| Special waste authorizations,<br>109.3, 109.4, 109.9, 109.11<br>IAB 3/19/03 **ARC 2357B** | Fourth Floor Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 8, 2003<br>10 a.m. |

**HUMAN SERVICES DEPARTMENT[441]**

| | | |
|---|---|---|
| Medicaid reimbursement methodology for hospital inpatient and outpatient services, 79.1(5), 79.1(16)<br>IAB 4/3/02 **ARC 2392B** | First Floor Southwest Conference Rm.<br>Hoover State Office Bldg.<br>Des Moines, Iowa | April 24, 2003<br>10 to 11 a.m. |
| Accountability measures for non-state-owned nursing facilities, 81.6(16)<br>IAB 4/3/02 **ARC 2391B** | First Floor Southwest Conference Rm.<br>Hoover State Office Bldg.<br>Des Moines, Iowa | April 24, 2003<br>9 to 10 a.m. |

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

| | | |
|---|---|---|
| Indigent defense claims processing, ch 9<br>IAB 3/19/03 **ARC 2349B** | Conference Room 320<br>Lucas State Office Bldg.<br>Des Moines, Iowa | April 8, 2003<br>10 a.m. |

**INSURANCE DIVISION[191]**

| | | |
|---|---|---|
| Unfair trade practices, amendments to ch 15<br>IAB 4/3/02 **ARC 2364B** | 330 Maple St.<br>Des Moines, Iowa | April 24, 2003<br>10 a.m. |

**NATURAL RESOURCE COMMISSION[571]**

| | | |
|---|---|---|
| Wildlife violator compact, 15.13<br>IAB 4/3/02 **ARC 2388B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 22, 2003<br>2 p.m. |
| Wildlife refuges, 52.1(2)<br>IAB 3/5/03 **ARC 2339B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 10, 2003<br>10 a.m. |
| Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4, 91.6<br>IAB 3/5/03 **ARC 2340B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 10, 2003<br>10 a.m. |
| Wild turkey fall hunting by residents, 99.2, 99.3(1), 99.5, 99.8(1), 99.9<br>IAB 3/5/03 **ARC 2344B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 10, 2003<br>10 a.m. |
| Deer hunting by residents, 106.1(5), 106.5 to 106.8, 106.10<br>IAB 3/5/03 **ARC 2342B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 10, 2003<br>1 p.m. |

**PERSONNEL DEPARTMENT[581]**

| | | |
|---|---|---|
| IPERS, 21.4, 21.6(9), 21.8(5), 21.11, 21.24(18)<br>IAB 4/2/03 **ARC 2367B** | 7401 Register Dr.<br>Des Moines, Iowa | April 22, 2003<br>9 a.m. |

**PROFESSIONAL LICENSURE DIVISION[645]**

| | | |
|---|---|---|
| Dietitians, 80.6, 81.6, ch 83<br>IAB 4/2/03 **ARC 2370B** | Fifth Floor Board Conference Room<br>Lucas State Office Bldg.<br>Des Moines, Iowa | April 23, 2003<br>9 to 11 a.m. |

**PUBLIC HEALTH DEPARTMENT[641]**

| | | |
|---|---|---|
| Volunteer health care provider program, 88.1 to 88.3, 88.11, 88.12(1), 88.13(3)<br>IAB 4/2/03 **ARC 2381B** | Room 517, Fifth Floor<br>Lucas State Office Bldg.<br>Des Moines, Iowa | April 22, 2003<br>10 to 11 a.m. |

**RACING AND GAMING COMMISSION[491]**

| | | |
|---|---|---|
| Definition of "conviction"; quarter horse time trial races, 4.4(3), 6.1, 6.2(1), 6.5(1), 10.6(19)<br>IAB 4/2/03 **ARC 2363B** | Suite B<br>717 E. Court<br>Des Moines, Iowa | April 22, 2003<br>9 a.m. |

**TREASURER OF STATE[781]**

| | | |
|---|---|---|
| Deposit and security of public funds in banks, ch 13<br>IAB 3/19/03 **ARC 2358B** | Treasurer's Office, First Floor<br>Capitol Building<br>Des Moines, Iowa | April 8, 2003<br>1 to 3 p.m. |

**UTILITIES DIVISION[199]**

| | | |
|---|---|---|
| Customer service rules revisions, 6.2, 6.3(3), 6.5(2), 19.4, 20.4<br>IAB 4/2/03 **ARC 2378B** | Hearing Room<br>350 Maple St.<br>Des Moines, Iowa | May 28, 2003<br>10 a.m. |
| Alternate energy production, amendments to ch 15; 20.9(2)<br>IAB 3/5/03 **ARC 2329B** | Hearing Room<br>350 Maple St.<br>Des Moines, Iowa | May 16, 2003<br>10 a.m. |
| Revisions required pursuant to Executive Orders 8 and 9, amendments to chs 19 to 21, 35, 36<br>IAB 4/3/02 **ARC 2387B**<br>(See also **ARC 2284B**, IAB 2/5/03) | Hearing Room<br>350 Maple St.<br>Des Moines, Iowa | May 9, 2003<br>1 p.m. |
| Customer rights and remedies to avoid disconnection, 19.4(15), 20.4(15)<br>IAB 2/5/03 **ARC 2285B** | Hearing Room<br>350 Maple St.<br>Des Moines, Iowa | April 8, 2003<br>10 a.m. |

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

| | | |
|---|---|---|
| Employer's contributions and charges, amendments to ch 23<br>IAB 3/19/03 **ARC 2351B** | 1000 E. Grand Ave.<br>Des Moines, Iowa | April 8, 2003<br>9:30 a.m. |

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies which were not included in the original reorganization legislation as "umbrella" agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
- Agricultural Development Authority[25]
- Soil Conservation Division[27]

ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS' AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
- Alcoholic Beverages Division[185]
- Banking Division[187]
- Credit Union Division[189]
- Insurance Division[191]
- Professional Licensing and Regulation Division[193]
  - Accountancy Examining Board[193A]
  - Architectural Examining Board[193B]
  - Engineering and Land Surveying Examining Board[193C]
  - Landscape Architectural Examining Board[193D]
  - Real Estate Commission[193E]
  - Real Estate Appraiser Examining Board[193F]
- Savings and Loan Division[197]
- Utilities Division[199]

CORRECTIONS DEPARTMENT[201]
- Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]
- Arts Division[222]
- Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
- City Development Board[263]
- Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]
- Educational Examiners Board[282]
- College Student Aid Commission[283]
- Higher Education Loan Authority[284]
- Iowa Advance Funding Authority[285]
- Libraries and Information Services Division[286]
- Public Broadcasting Division[288]
- School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
GENERAL SERVICES DEPARTMENT[401]
HUMAN INVESTMENT COUNCIL[417]
HUMAN RIGHTS DEPARTMENT[421]
- Community Action Agencies Division[427]
- Criminal and Juvenile Justice Planning Division[428]
- Deaf Services Division[429]
- Persons With Disabilities Division[431]
- Latino Affairs Division[433]
- Status of African-Americans, Division on the[434]
- Status of Women Division[435]

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INFORMATION TECHNOLOGY DEPARTMENT[471]

INSPECTIONS AND APPEALS DEPARTMENT[481]
- Employment Appeal Board[486]
- Foster Care Review Board[489]
- Racing and Gaming Commission[491]
- State Public Defender[493]

LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
- Appeal Board, State[543]
- City Finance Committee[545]
- County Finance Committee[547]

NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
- Energy and Geological Resources Division[565]
- Environmental Protection Commission[567]
- Natural Resource Commission[571]
- Preserves, State Advisory Board for[575]

PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
- Emergency Management Division[605]
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
- Substance Abuse Commission[643]
- Professional Licensure Division[645]
- Dental Examiners Board[650]
- Medical Examiners Board[653]
- Nursing Board[655]
- Pharmacy Examiners Board[657]

PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
- Archaeologist[685]

REVENUE AND FINANCE DEPARTMENT[701]
- Lottery Division[705]

SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
- Railway Finance Authority[765]

TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
- Labor Services Division[875]
- Workers' Compensation Division[876]
- Workforce Development Board and Workforce Development Center Administration Division[877]

## ARC 2371B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 99D.22, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 62, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

This proposed new rule allows embryo transfers to be eligible for Iowa-foaled status.

Any interested person may make written suggestions or comments on the proposed new rule prior to 4:30 p.m. on April 22, 2003. Such written material should be directed to Morris Boswell, Bureau Chief, Horse and Dog Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-8888 or by E-mail to Morris.Boswell@idals.state.ia.us.

This proposed rule is intended to implement Iowa Code section 99D.22.

The following new rule is proposed.

Amend 21—Chapter 62 by adopting the following **new** rule:

**21—62.37(99D) Embryo transfer—Iowa-foaled status.** Embryo transfers may be eligible for Iowa-foaled status in accordance with the following provisions:

**62.37(1)** The donor mare and the recipient mare must be in the state of Iowa before the first day of December of the year prior to foaling and must remain together at the same address until the foal or foals are born and are inspected by the department.

**62.37(2)** There is no limit to the number of foals eligible for Iowa-foaled status, provided the donor mare or a recipient mare:

a. Carries the foal full term;
b. Meets all the required Iowa rules; and
c. Is inspected by the department.

**62.37(3)** Registration and status reports of recipient mares and donor mares must be submitted to the department with proper identification, including but not limited to registration certificates, brands, and identification numbers prior to the time the donor mare is serviced.

**62.37(4)** Recipient mares must have a name, brand, or some means of identification and must be photographed for inspection purposes.

## ARC 2384B

## AUDITOR OF STATE[81]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 11.6, subsection 10, the Office of Auditor of State hereby gives Notice of Intended Action to amend Chapter 21, "Filing Fees," Iowa Administrative Code.

The proposed amendment revises the fee structure for filing audits required under the provisions of Iowa Code section 11.6, subsections 1 to 3.

Interested persons may make written comments or suggestions on the proposed amendment on or before April 22, 2003. Comments should be addressed to the Office of Auditor of State, State Capitol Building, Des Moines, Iowa 50319, or faxed to (515)242-6134.

This amendment is intended to implement Iowa Code section 11.6, subsection 10.

The following amendment is proposed.

Amend subrule 21.1(2) as follows:

**21.1(2)** The designated strata and applicable fees are as follows:

| Budgeted Expenditures in Millions of Dollars | Fee Amount |
|---|---|
| Under 1 | $ ~~75~~ *100* |
| At least 1 but less than 3 | ~~150~~ *175* |
| At least 3 but less than 5 | ~~225~~ *250* |
| At least 5 but less than 10 | ~~375~~ *425* |
| At least 10 but less than 25 | ~~550~~ *625* |
| 25 and over | ~~750~~ *850* |

## ARC 2399B

## EDUCATION DEPARTMENT[281]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to adopt Chapter 19, "Attendance Centers," Iowa Administrative Code.

This chapter is proposed pursuant to Iowa Code section 17A.3(1), which requires state agencies to promulgate administrative rules in situations where administrative case law yields guidelines applicable to the regulated public. Specifically, the guidelines regarding the closing of an attendance center have been in the Department's administrative law cases since the case of In re Norman Barker, 1 D.P.I. App. Dec. 145 (1977). The guidelines regarding grade realign-

EDUCATION DEPARTMENT[281](cont'd)

ment within an attendance center were first published by the Department in McCoy v. Highland Community School District, 8 D.o.E. App. Dec. 1 (1990) and most recently clarified and affirmed in Jacobson v. Nodaway Valley Community School District, 21 D.o.E. App. Dec. 99 (2002).

Any interested person may submit oral or written suggestions or comments on or before April 22, 2003, by addressing them to Carol J. Greta, J.D., Legal Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5295; E-mail carol.greta@ed.state.ia.us.

A public hearing will be held on Tuesday, April 22, 2003, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

This chapter is intended to implement Iowa Code sections 256.7(5) and 279.11.

The following **new** chapter is proposed.

CHAPTER 19
ATTENDANCE CENTERS

**281—19.1(256,279) Policy.** The board of directors of a school district has discretion as to the number of attendance centers it shall operate within the district. The process for determining whether to close an attendance center must involve public notice, public consideration and public involvement. The policies set forth in rule 281—19.2(256,279) are meant to ensure full opportunity for public participation in the relevant events. It is intended that the policies shall be implemented by local boards in such a way as will most reasonably accommodate the specific facts and circumstances surrounding the decision with which the local board is faced.

**281—19.2(256,279) Attendance center closing procedure.** When making a decision regarding whether to close an attendance center within its district, the board of directors of a school district shall substantially comply with all of the following steps.

**19.2(1)** The board shall establish a timeline in advance for carrying out the procedures involved in making the decision on the matter, focusing all aspects of the timeline upon the anticipated date that the board will make its final decision.

**19.2(2)** The board shall inform segments of the community within its district that the matter is under consideration by the board. This shall be done in a manner reasonably calculated to apprise the public of that information.

**19.2(3)** The board shall seek public input in all study and planning steps involved in making the decision.

**19.2(4)** The board and groups and individuals selected by the board shall carry out sufficient research, study and planning. The research, study and planning shall include consideration of, at a minimum, student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment.

**19.2(5)** The board shall promote open and frank public discussion of the facts and issues involved.

**19.2(6)** The board shall make a proper record of all steps taken in the making of the decision.

**19.2(7)** The board shall make its final decision in an open meeting with a record made thereof.

**281—19.3(256,279) Grade realignments.** When making a decision regarding a realignment of the grades to be taught in an attendance center within its district, the board of directors of a school district shall substantially comply with all of the following steps.

**19.3(1)** The board and groups and individuals selected by the board shall carry out sufficient research, study and planning. The research, study and planning shall include consideration of, at a minimum, student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment.

**19.3(2)** The board shall post or cause to be posted the grade realignment proposal in a prominent place at the affected attendance center(s). The board shall also publish the grade realignment proposal in the agenda of an upcoming board meeting open to the public.

**19.3(3)** The board shall promote open and frank public discussion of the facts and issues involved.

**19.3(4)** The board shall make its final decision in an open meeting with a record made thereof.

These rules are intended to implement Iowa Code sections 256.7(5) and 279.11.

# ARC 2398B

# EDUCATION DEPARTMENT[281]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 21, "Community Colleges," Iowa Administrative Code.

The proposed amendments update the rules governing minimum standards for community college-employed faculty in accordance with 2002 Iowa Acts, chapter 1047 (House File 2394). 2002 Iowa Acts, chapter 1047, eliminates the state licensure requirements for community college faculty through the Board of Educational Examiners and sets forth minimum standards for full-time faculty teaching in arts and sciences and career and technical education.

Any interested person may submit oral or written comments on or before April 25, 2003. Comments should be sent to Beverly Bunker, Administrative Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3615; E-mail: beverly.bunker@ed.state.ia.us; fax (515)281-6544.

A public hearing will be held on Friday, April 25, 2003, from 3 to 4 p.m. over the Iowa Communications Network at the following sites:

Department of Education
Grimes State Office Building (2nd Floor)
Des Moines
(515)281-3038

NICC
1625 Hwy 150 South
Rm. 115, Industrial Technologies Building
Calmar
(563)562-3263

NICC—1
10250 Sundown Rd.
Rm. 139
Peosta
(563)556-5110

EDUCATION DEPARTMENT[281](cont'd)

NIACC—1
500 College Dr.
Rm. 106, Activity Center
Mason City
(641)423-1264

ILCC
300 South 18th Street
Rm. 22, Library Building
Estherville
(712)362-2604

ILCC
3200 College Dr.
Rm. 818, Arthur & Audrey Smith Wellness Center
Emmetsburg
(712)852-3554

NCC—2
603 W. Park Street
Rm. 410, Building D
Sheldon
(712)324-5061

Arrowhead AEA 5
330 Ave. M
Room Lib 204
Library Bldg.-ICCC Campus
Fort Dodge
(515)574-5500

ICCC
916 North Russell
Rm. 16
Storm Lake
(712)732-2991

Ellsworth Community College
1100 College Ave.
Reg Johnson Hall 105
Iowa Falls
(641)648-4611

IVCCD-1
3702 South Center St.
Rm. 806, Continuing Education Center
Marshalltown
(641)752-4645

HCC-1
1501 E. Orange Road
Rm. 110, Tama Hall
Waterloo
(319)296-2320

EICCD-1
326 W. 3rd Street
Rm. 300, Kahl Educational Center
Davenport
(563)336-5200

Muscatine Community College
152 Colorado St.
Rm. 60, Larson Hall
Muscatine
(563)288-6001

KCC-2
Box 2068
6301 Kirkwood Blvd. SW
Rm. 203B, Linn Hall
Cedar Rapids
(319)398-1248

DMACC-Ankeny Campus
2006 S. Ankeny Blvd.
Rm. 8, Building 6
Ankeny
(515)964-6200

WITCC-1
4647 Stone Avenue
Rm. 925, Building A
Sioux City
(712)274-6400

IWCC-1
2700 College Road
Looft Hall
Council Bluffs
(712)325-3200

SWCC-1
Box 458
1501 W. Townline Rd.
Rm. 211, Instructional Center
Creston
(641)782-7081

IHCC-1
525 Grandview Avenue
Rm. 107, Advanced Technology Center
Ottumwa
(641)683-5228

SECC-1
Box 180
1500 W. Agency Rd.
Rm. 503, North Campus/Trustee Hall
West Burlington
(319)752-2731

These amendments are intended to implement 2002 Iowa Acts, chapter 1047.

The following amendments are proposed.

ITEM 1. Rescind subrule 21.3(1) and adopt in lieu thereof the following **new** subrule:

**21.3(1)** Minimum standards. Community college-employed instructors teaching full-time in career and technical education and arts and sciences shall meet minimum standards. In accordance with 2002 Iowa Acts, chapter 1047, section 8, standards shall at a minimum require that full-time community college instructors meet the following requirements:

a. Instructors in the subject area of career and technical education shall be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure, and shall hold the appropriate registration, certificate, or license for the occupational area in which the instructor is teaching, and shall meet either of the following qualifications:

(1) A baccalaureate or graduate degree in the area or a related area of study or occupational area in which the instructor is teaching classes.

(2) Special training and at least 6,000 hours of recent and relevant work experience in the occupational area or related

EDUCATION DEPARTMENT[281](cont'd)

occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree.

b. Instructors in the subject area of arts and sciences shall meet either of the following qualifications:

(1) Possess a master's degree from a regionally accredited graduate school, and have successfully completed a minimum of 12 credit hours of graduate level courses in each field of instruction in which the instructor is teaching classes.

(2) Have two or more years of successful experience in a professional field or area in which the instructor is teaching classes and in which post baccalaureate recognition or professional licensure is necessary for practice, including but not limited to the fields or areas of accounting, engineering, law, law enforcement, and medicine.

c. Full-time developmental education and adult education instructors may or may not meet minimum requirements depending on their teaching assignments and the relevancy of standards to the courses they are teaching and the transferability of such courses. If instructors are teaching credit courses reported in arts and sciences or career and technical education, it is recommended that these instructors meet minimum standards set forth in subrule 21.3(1), paragraph "a" or "b."

ITEM 2. Adopt the following **new** subrules 21.3(2) and 21.3(3) and renumber current subrules **21.3(2)** to **21.3(4)** as **21.3(4)** to **21.3(6)**:

**21.3(2)** Definitions. For purposes of interpreting this rule, the following definitions shall apply:

"Field of instruction." The determination of what constitutes each field of instruction should be based on accepted practices of regionally accredited two- and four-year institutions of higher education.

"Full-time instructor." An instructor is considered to be full-time if the community college board of directors designates the instructor as full-time. Consideration of determining full-time status shall be based on local board approved contracts.

"Instructors meeting minimum requirements." A community college instructor meeting the minimum requirements of 2002 Iowa Acts, chapter 1047, section 8, is a full-time instructor teaching college credit courses. Credit courses should meet requirements as specified in rule 281—21.2(260C), and meet program requirements for college parallel, career and technical education, and career-option programs as specified in rule 281—21.4(260C) and Iowa Code chapter 260C.

"Minimum of 12 graduate hours." Full-time arts and sciences instructors must possess a master's degree and complete a minimum of 12 graduate hours in their field of instruction. The 12 graduate hours may be within the master's degree requirements or independent of the master's degree.

"Relevant work experience." An hour of recent and relevant work experience is equal to 60 minutes. The community college will determine what constitutes recent and relevant work experience that relates to the instructor's occupational and teaching area. The college should maintain documentation of the instructor's educational and work experience.

**21.3(3)** Accreditation status. The results of the department of education's on-site visits required by Iowa Code subsections 260C.36(1)"h" and 260C.36(3) will be reported to each community college with information to be used in accreditation visits starting in year 2006.

Beginning July 1, 2006, the state accreditation process shall incorporate the standards developed pursuant to 2002 Iowa Acts, chapter 1047, section 9.

# ARC 2392B

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments clarify the current Medicaid reimbursement methodology for hospital inpatient services, based on diagnosis-related groups (DRGs), and hospital outpatient services, based on ambulatory patient groups (APGs). Rebasing and recalibration of DRG and APG weights scheduled for 2002 have been delayed because the current rules do not contain enough specificity on certain technical issues. These amendments:

- Clarify the use of data from critical access hospitals in setting and rebasing inpatient and outpatient hospital reimbursement rates. Since critical access hospitals are reimbursed at their actual costs based on retrospective cost settlement instead of on the DRG/APG system, it is not appropriate to include their cost data in the calculations that determine DRG and APG reimbursement. These amendments provide that data from a hospital be excluded from statewide calculations when the hospital was reimbursed as a critical access hospital during any period of time included in the base-year cost report.
- Specify the cost reports to be used in rebasing. In order for the Department to achieve timely calculation of rates, these amendments impose a deadline of May 31 for hospitals to submit cost reports to be used in rebasing.
- Correct the formula definition for "long stay" outliers and a departmental address. The purpose of long stay outlier payments is to provide financial protection to hospitals against a few atypically expensive cases. Using the lesser of a specified statistical value or absolute value provides this protection. If the greater of these values is used, the intended financial protection is greatly reduced.
- Delete an unneeded definition of "indirect medical education costs" and the provision allowing hospitals to appeal their Medicaid rates after Medicare has finalized its review of their cost reports. This appeal provision has not been used and is unnecessary because the Department's fiscal agent reviews and adjusts cost reports pursuant to Medicare principles. Such appeals would be burdensome and costly because each one would affect all hospital reimbursement rates and could cause changes in Medicaid rates long after they have been set and funding has been appropriated.

These amendments do not provide for waivers in specified situations because the Department believes that reimbursement rates should be calculated consistently for all hospitals. A hospital may request a waiver of any part of the reimbursement methodology under the Department's general rule at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 23, 2003. Comments should be directed to the Office of Policy Analysis,

Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on April 24, 2003, from 10 to 11 a.m. in the First Floor Southwest Conference Room, Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of specific needs.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend paragraph **79.1(5)"a"** as follows:

Amend the definitions of "blended base amount," "blended capital costs," and "direct medical education rate" as follows:

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which ~~add-on~~ payments for inflation and capital costs are added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals *during any of the period of time included in the base-year cost report* shall not be used in determining the statewide average case-mix-adjusted operating cost per Medicaid discharge.

For purposes of calculating the disproportionate share rate only, a separate blended base amount shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the case-mix-adjusted operating cost per discharge associated with treating Medicaid patients in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Blended capital costs" shall mean *case-mix-adjusted* hospital-specific capital costs, plus statewide average capital costs, divided by two. *The costs of hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report shall not be used in determining the statewide average capital costs.*

For purposes of calculating the disproportionate share rate only, separate blended capital costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the capital costs related to the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Direct medical education rate" shall mean a rate calculated for a hospital reporting medical education costs on the Medicare cost report (HCFA 2552). The rate is calculated using the following formula: Direct medical education costs are multiplied by inflation factors. The result is ~~further~~ divided by the hospital's case-mix index, then is *further* divided by net discharges. This formula is limited by funding availability that is legislatively appropriated.

For purposes of calculating the disproportionate share rate only, a separate direct medical education rate shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the direct medical education costs, case-mix index, and net discharges of the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

Rescind the definition of "indirect medical education costs."

ITEM 2. Amend paragraph **79.1(5)"c"** as follows:

Amend subparagraph **(1)**, introductory paragraph, as follows:

(1) Iowa-specific weights are calculated from Medicaid charge data on discharge dates occurring from January 1, 2000, to December 31, 2001, and paid through March 31, 2002. *Medicaid charge data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report shall not be used in calculating Iowa-specific weights.* One weight is determined for each DRG with noted exceptions. Weights are determined through the following calculations:

Amend subparagraph **(2)**, introductory paragraph, as follows:

(2) The hospital-specific case-mix index is computed by taking each hospital's trimmed claims that match the hospital's 2001 fiscal year and paid through March 31, 2002, summing the assigned DRG weights associated with those claims and dividing by the total number of Medicaid claims associated with that specific hospital for that period. *Case-mix indices are not computed for hospitals receiving reimbursement as critical access hospitals.*

ITEM 3. Amend subparagraph **79.1(5)"d"(1)** as follows:

(1) Calculation of statewide average case-mix-adjusted cost per discharge. The statewide average cost per discharge is calculated by subtracting from the statewide total Iowa Medicaid inpatient expenditures the total calculated dollar expenditures based on hospitals' base-year cost reports for capital costs, medical education costs, and calculation of actual payments that will be made for additional transfers, outliers, physical rehabilitation services, and indirect medical education. *Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average cost per discharge.* The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation if applicable) is divided by the statewide total number of Iowa Medicaid discharges reported in the Medicaid management information system (MMIS) less an actual number of nonfull DRG transfers and short stay outliers.

ITEM 4. Amend paragraph **79.1(5)"e,"** first unnumbered paragraph, as follows:

Capital costs are included in the rate table listing and added to the blended base amount prior to setting the final payment rate schedule. This add-on reflects a 50/50 blend of the statewide average case-mix-adjusted capital cost per discharge and the case-mix-adjusted hospital-specific base-year capital cost per discharge attributed to Iowa Medicaid patients. Allowable capital costs are determined by multiplying the capital amount from the base-year cost report by 80 percent. *Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average case-mix-adjusted capital cost per discharge.* The 50/50 blend is calculated by adding the case-mix-adjusted hospital-specific per discharge capital cost to the statewide average case-mix-adjusted per discharge capital costs and dividing by two. Hospitals whose blended capital add-on exceeds one standard deviation off

the mean Medicaid blended capital rate will be subject to a reduction in their capital add-on to equal the first standard deviation.

ITEM 5. Amend subparagraph **79.1(5)"f"(1)** as follows:

(1) Long stay outliers. Long stay outliers are incurred when a patient's stay exceeds the upper day limit threshold. This threshold is defined as the ~~greater~~ *lesser* of *the arithmetically calculated average length of stay plus* 23 days of care or two standard deviations above the average statewide length of stay for a given DRG*, calculated geometrically.* Reimbursement for long stay outliers is calculated at 60 percent of the average daily rate for the given DRG for each approved day of stay beyond the upper day limit. Payment for long stay outliers shall be paid at 100 percent of the calculated amount and made at the time the claim is originally paid.

ITEM 6. Amend subrule **79.1(5)**, paragraphs **"k," "m,"** and **"o,"** as follows:

k. Inflation factors, rebasing, and recalibration.

*(1)* Inflation of base payment amounts by the Data Resources, Inc. hospital market basket index shall be performed annually, subject to legislative appropriations.

*(2)* Base amounts shall be rebased and weights recalibrated *in 2005 and* every three years *thereafter. Cost reports used in rebasing shall be hospital fiscal year-end HCFA 2552 reports, as submitted to Medicare, for the hospital fiscal year ending during the prior calendar year. If a hospital does not provide this cost report to the Medicaid fiscal agent by May 31 of a year in which rebasing occurs, the most recent submitted cost report will be used.*

*(3)* The graduate medical education and disproportionate share fund shall be updated as provided in subparagraphs 79.1(5)"y"(3), (6), and (9).

*(4)* Hospitals receiving reimbursement as critical access hospitals shall not receive inflation of base payment amounts and shall not have base amounts rebased or weights recalibrated pursuant to this paragraph.

m. Payment to out-of-state hospitals. Payment made to out-of-state hospitals providing care to beneficiaries of Iowa's Medicaid program is equal to either the Iowa statewide average blended base amount plus the statewide average capital cost add-on, multiplied by the DRG weight, or blended base and capital rates calculated by using 80 percent of the hospital's submitted capital costs. ~~For those hospitals~~ *Hospitals* that ~~wish to submit~~ *submitted* a cost report ~~no less than 120 days prior to rebasing~~ using data for Iowa Medicaid patients only~~,~~ *before May 31, 2002, for the base year or that submit such a cost report no later than May 31 in a rebasing year* ~~that provider~~ will receive a case-mix-adjusted blended base rate using hospital-specific, Iowa-only Medicaid data and the Iowa statewide average cost per discharge amount.

*(1)* Capital costs will be reimbursed at either the statewide average rate in place at the time of discharge, or the blended capital rate computed by using submitted cost report data.

*(2)* Hospitals that qualify for disproportionate share payment based on the definition established by their state's Medicaid agency for the calculation of the Medicaid inpatient utilization rate will be eligible to receive disproportionate share payments according to paragraph "y."

*(3)* If a hospital qualifies for reimbursement for direct medical education or indirect medical education under Medicare guidelines, it shall be reimbursed according to paragraph "y."

~~Hospitals that wish to submit the HCFA 2552 (or HCFA accepted substitute) cost report must do so within 60 days from the date of patient discharge to the state of Iowa's fiscal agent. Hospitals that elect to submit cost reports for the determination of blended rates must submit new reports on an annual basis within 150 days of the close of the hospital's fiscal year end. When audited, finalized reports become available from the Medicare intermediary, these should be submitted to the Iowa Medicaid fiscal agent.~~

o. Hospital billing. Hospitals shall normally submit claims for DRG reimbursement to the fiscal agent after a patient's discharge. Payment for outlier days or costs is determined when the claim is paid by the fiscal agent, as described in paragraph "f."

When a Medicaid patient requires acute care in the same facility for a period of no less than 120 days, a request for partial payment may be made. Written requests for this interim DRG payment shall be addressed to the ~~Administrator, Division of Medical Services,~~ Iowa Department of Human Services, *Office of the Deputy Director for Policy,* 1305 East Walnut, Des Moines, Iowa 50309-0114, and shall include the patient's name, state identification number, date of admission, brief summary of the case, current listing of charges, and physician's attestation that the recipient has been an inpatient for 120 days and is expected to remain in the hospital for a period of no less than 60 additional days. A departmental employee will then contact the facility to assist the facility in filing the interim claim.

ITEM 7. Rescind and reserve paragraph **79.1(5)"s."**

ITEM 8. Amend paragraph **79.1(16)"a,"** definition of "blended base amount," as follows:

"Blended base amount" shall mean the case-mix-adjusted, hospital-specific operating cost per visit associated with treating Medicaid outpatients, plus the statewide average case-mix-adjusted operating cost per Medicaid visit, divided by two. This basic amount is the value to which inflation is added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals *during any of the period of time included in the base-year cost report* shall not be used in determining the statewide average case-mix-adjusted operating cost per Medicaid visit.

ITEM 9. Amend paragraph **79.1(16)"b"** as follows:

b. Determination of final payment rate amount. Each hospital's APG-based payment equals the hospital's case-mix index multiplied by the number of valid visits multiplied by the blended base amount. The blended base rate is then adjusted, so that statewide reimbursement equals statewide valid costs from cost reports. *Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide valid costs.* Payment is then recomputed using the adjusted blended base amount. The hospital's final APG payment amount reflects the sum of inflation adjustments to the blended base amount.

ITEM 10. Amend paragraph **79.1(16)"d,"** introductory paragraph, as follows:

d. Calculation of Iowa-specific relative weights and case-mix index. Using all applicable claims with dates of service occurring in the period January 1, 2000, through December 31, 2001, and paid through March 31, 2002, relative weights are calculated using all valid singleton claims, which are trimmed at high and low trim points, as discussed in paragraph "c." *Claims of hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report are not used in calculating Iowa-specific relative weights.*

HUMAN SERVICES DEPARTMENT[441](cont'd)

Using all applicable claims with dates of service occurring within the individual hospital's 2001 fiscal year and paid through March 31, 2002, the hospital-specific case-mix indices are calculated using all valid singleton claims, which are trimmed at the high and low trim points, as discussed in paragraph "c." *Case-mix indices are not computed for hospitals receiving reimbursement as critical access hospitals.*

ITEM 11. Amend subparagraph **79.1(16)"e"(1)** as follows:

(1) Calculation of statewide average case-mix-adjusted cost per visit. The statewide average cost per visit is calculated by subtracting from the statewide total Iowa Medicaid outpatient expenditures: the total calculated dollar expenditures based on hospitals' base-year cost reports for medical education costs, and, using valid claims, calculation of actual payments that will be made for outliers, fee-scheduled laboratory services, and services known as noninpatient programs as set forth at 441—subrule 78.31(1), paragraphs "g" to "n." The remaining amount (which has been case-mix-adjusted and adjusted to reflect inflation) is divided by the statewide total number of Iowa Medicaid visits reported in the Medicaid management information system (MMIS). *Data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average case-mix-adjusted cost per visit.*

ITEM 12. Amend paragraph **79.1(16)"j,"** second unnumbered paragraph, as follows:

*(1)* Inflation of base payment amounts by the Data Resources, Inc. hospital market basket index shall be performed annually, subject to legislative appropriations.

*(2)* Base amounts shall be rebased and APG weights recalibrated *in 2005 and* every three years *thereafter.* Cost reports used *in rebasing* ~~will~~ *shall* be hospital fiscal year-end *HCFA 2552* reports*, as submitted to Medicare,* ~~within the calendar year ending no later than December 31, 2001~~ *for the hospital fiscal year ending during the prior calendar year. If a hospital does not submit this cost report to the Medicaid fiscal agent by May 31 of a year in which rebasing occurs, the most recent submitted cost report will be used.*

*(3)* Case-mix indices shall be calculated using valid claims most nearly matching each hospital's fiscal year end.

*(4)* The graduate medical education and disproportionate share fund shall be updated as provided in subparagraph 79.1(16)"v"(3).

*(5)* Hospitals receiving reimbursement as critical access hospitals shall not receive inflation of base payment amounts and shall not have base amounts rebased or weights recalibrated pursuant to this paragraph.

ITEM 13. Amend paragraph **79.1(16)"k"** as follows:

k. Payment to out-of-state hospitals. Payment made to out-of-state hospitals providing care to beneficiaries of Iowa's Medicaid program is equal to either the Iowa statewide average case-mix-adjusted base amount or the Iowa statewide average case-mix-adjusted base amount blended with the hospital-specific base amount. Hospitals that ~~submit~~ *submitted* a cost report ~~with~~ *using* data for Iowa Medicaid patients only~~, no less than 120 days prior to~~ *before May 31, 2002, for the base year or that submit such a cost report no later than May 31 in a* rebasing~~,~~ *year* will receive a case-mix-adjusted blended base rate using hospital-specific Iowa-only Medicaid data and the Iowa statewide average cost per visit amount. If a hospital qualifies for reimbursement for direct medical education under Medicare guidelines, it shall qualify for reimbursement purposes in Iowa. ~~Hospitals wishing to submit the HCFA 2552 (or HCFA accepted substitute) cost report must do so within 60 days from the date of patient visit to the Medicaid fiscal agent. Hospitals that elect to submit cost reports for the determination of blended rates shall submit new reports to the department's fiscal agent on an annual basis within 150 days of the close of the hospital's fiscal year end. When audited, finalized reports become available from the Medicare intermediary, the facility may submit them to the Iowa Medicaid fiscal agent.~~

ITEM 14. Rescind and reserve paragraph **79.1(16)"p."**

# ARC 2390B

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."***

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 80, "Procedure and Method of Payment," Iowa Administrative Code.

These amendments change the procedures for obtaining prior authorization for payment of Medicaid services and for submitting claims. These amendments are necessary because the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires health plans to allow these transactions to be submitted electronically, but the federal forms for electronic attachments will not be ready by the implementation date.

These amendments will affect Medicaid providers, such as physicians, hospitals, dentists, audiologists, medical equipment suppliers, and home health agencies, that are required to submit additional documentation to justify requests for prior authorization or payment. These amendments add two forms that will enable the Medicaid fiscal agent to match prior authorizations or claims submitted electronically with supporting documentation that cannot be submitted electronically at this time. The amendments also correct two references in the prior authorization process.

These amendments do not provide for waivers in specified situations because they confer a benefit by providing a process by which electronic claim submissions can be matched with the supporting clinical documentation.

Any interested person may make written comments on the proposed amendments on or before April 23, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 79.8(1) as follows:

**79.8(1)** *Making the request.*

HUMAN SERVICES DEPARTMENT[441](cont'd)

*a.* ~~Requests~~ *Providers may submit requests* for prior ~~approval~~ *authorization* for any items or procedures ~~shall be made~~ *by mail or by facsimile transmission (fax)* using Form 470-0829, Request for Prior Authorization~~. Requests not related to prior authorization for dental procedures may be submitted by facsimile (fax)~~, or ~~mail.~~ *electronically using the Accredited Standards Committee (ASC) X12N 278 transaction, Health Care Services Request for Review and Response.* Requests for prior authorization for drugs may also be made by telephone.

*b.* ~~Requests~~ *Providers shall send requests* for prior ~~approval~~ *authorization* ~~shall be sent~~ to ~~Consultec, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422~~ *the Medicaid fiscal agent*. The request should ~~include~~ *address* the relevant criteria applicable to the particular service, medication or equipment~~,~~ for which prior ~~approval~~ *authorization* is sought, according to ~~the criteria outlined in~~ rule 441—78.28(249A). Copies of history and examination results may be attached to rather than incorporated in the letter.

*c. If a request for prior authorization submitted electronically requires attachments or supporting clinical documentation and a national electronic attachment has not been adopted, the provider shall:*

*(1) Use Form 470-3970, Prior Authorization Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation; and*

*(2) Reference on Form 470-3970 the attachment control number submitted on the ASC X12N 278 electronic transaction.*

ITEM 2. Amend subrule **80.2(1)** as follows:

Amend paragraph **"c,"** introductory paragraph, as follows:

c. Claims submitted electronically after implementation of the Health Insurance Portability and Accountability Act of 1996 shall be filed on the Accredited Standards Committee (~~ACS~~ *ASC*) X12N *837 transaction*, Health Care Claim. The department shall send all providers written notice when the Act is implemented.

Adopt **new** paragraph **"d"** as follows:

d. If a claim submitted electronically requires attachments or supporting clinical documentation and a national electronic attachment has not been adopted, the provider shall:

(1) Use Form 470-3969, Claim Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation; and

(2) Reference on Form 470-3969 the attachment control number submitted on the ASC X12N 837 electronic transaction.

# ARC 2391B

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change two of the accountability measures used to determine whether a non-state-owned nursing facility qualifies for additional reimbursement based on its performance. The accountability measures were implemented July 1, 2002, as part of the change to a case-mix methodology for nursing facility reimbursement. After the first year of experience with the measures, the Department reconvened the work group that developed the initial measures to review the results. Based on feedback from the work group, the Department is proposing the following changes:

- Amend the terminology of measure 2, "substantial compliance with survey," to substitute the phrase "regulatory compliance," since the term "substantial compliance" has a different meaning within the survey process and has caused confusion. Under the proposed amendment, the standard for compliance would be that no revisit was required, and the measurement period would include any recertification survey or complaint investigation completed within the preceding calendar year.
- Amend measure 8, "low administrative costs," to remove references to low utilization of contracted nursing hours. The work group did not agree that this measure was a good predictor of quality and efficiency. Any use of contracted nursing hours disqualified a facility on this measure, even if the occasional use of contracted nursing hours was a more cost-effective choice for a facility.

These amendments do not provide for waivers in specified situations because all non-state-owned facilities should be subject to the same standards for determining additional reimbursement. A facility may request a waiver of any part of the reimbursement methodology under the Department's general rule at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 23, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on April 24, 2003, from 9 to 10 a.m. in the First Floor Southwest Conference Room, Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement 2001 Iowa Acts, chapter 192, section 4.

The following amendments are proposed.

ITEM 1. Amend subrule **81.6(16)**, paragraph **"g,"** subparagraph **(2)**, as follows:

Amend the introductory paragraph as follows:

(2) ~~Substantial~~ *Regulatory* compliance with survey.

Amend numbered paragraphs **"1"** and **"2"** as follows:

1. Standard. Facilities shall be *considered to be* in ~~substantial~~ *regulatory* compliance ~~with state and federal licensing and certification surveys and any subsequent surveys, complaint investigations, or~~ *if no on-site* revisit *is required for recertification surveys or for any substantiated complaint* investigations *during the measurement period*. ~~Substantial compliance is defined as surveys, complaint investigations, or revisit investigations conducted within a calendar year that do not result in "F" level or greater deficiencies and that have no more than a combined total of three deficiencies at an "E"~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~level or higher, pursuant to 42 CFR, Part 483, Subparts B and C, as amended to July 30, 1999.~~

2. Measurement period. The measurement period shall ~~be the latest annual~~ *include any recertification* survey *or complaint investigations* completed on or before December 31 of each year ~~and any subsequent surveys, complaint investigations, or revisit investigations completed between the annual survey date and December 31~~.

ITEM 2. Amend subrule **81.6(16)**, paragraph **"g,"** subparagraph **(8)**, as follows:

Amend the introductory paragraph as follows:

(8) Low administrative costs ~~and low utilization of contracted nursing~~.

Amend numbered paragraphs **"1"** and **"2"** as follows:

1. Standard. A nursing facility's ~~per resident day~~ *percentage of* administrative costs ~~and per resident day contracted nursing hours~~ *to total costs* shall ~~each~~ be at or below the fiftieth percentile. ~~Contracted nursing hours shall be normalized to remove variations in staff hours associated with different levels of resident case mix. The case-mix index used to normalize contracted nursing hours shall be the facility cost report period case-mix index.~~

2. Measurement period. The low administrative costs ~~and low utilization of contracted nursing~~ shall be calculated using the latest Form 470-0030, Financial and Statistical Report, with a fiscal year end of December 31 or earlier.

## ARC 2393B

# HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 130, "General Provisions," Iowa Administrative Code.

This amendment adds adoption subsidy payments to the list of income sources that are disregarded in determining income eligibility for child care services. This amendment will remove a barrier to adoptive families in accessing the child care assistance program.

Due to Iowa's success in placing special needs children for adoption, there is severe financial pressure on the adoption subsidy program. If families that qualify for child care assistance get help from that program to meet child care expenses, then demand for adoption subsidy funds could be reduced. The intent of the adoption subsidy program is not to make families ineligible for other programs, but to supplement a family's income to meet needs that are not covered by other programs.

This amendment does not provide for waivers in specified situations because exempting income confers a benefit on applicants for services.

Any interested person may make written comments on the proposed amendment on or before April 23, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code sections 234.6 and 237A.13.

The following amendment is proposed.

Amend subrule **130.3(3)** by adopting the following **new** paragraph **"ab"**:

ab. For child care services, any adoption subsidy payments received from the Iowa department of human services.

## ARC 2364B

# INSURANCE DIVISION[191]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 505.8 and 507B.2, the Iowa Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, "Unfair Trade Practices," Iowa Administrative Code.

These amendments clarify guidelines for insurance advertisements and set new guidelines for insurance producers who are also financial planners. The amendments remove education and training materials from the definition of advertising and create a new subrule that gives guidelines for insurers on this subject. The amendments in Item 15 clarify the relationship of Chapter 15 to Chapters 16 and 33 with regard to the "free look" required with life insurance policies and annuities. Four new rules are proposed with detailed guidelines for settlement of property and casualty insurance claims.

The Division proposes to adopt two NAIC model regulations and proposes to create new Divisions III and IV within Chapter 15. The new Division III requires specific disclosures to consumers who purchase life insurance policies with face values of up to $15,000. Insurers will be required to notify consumers if the cumulative premiums paid may exceed the face value of the policy. The new Division IV includes new annuity disclosure requirements and requires insurers to deliver certain educational materials to consumers who purchase annuities.

The amendments rescind a requirement for insurers to complete a form called "Acknowledgment of Nonduplication" and eliminate the appendix that included the form. The amendments also make a number of technical changes, i.e., restructure the rules into topical subdivisions and change a number of references from "person" to "individual."

A public hearing will be held at the offices of the Iowa Insurance Division (IID) at 10 a.m. on April 24, 2003. The IID is located at 330 Maple Street, Des Moines, Iowa 50319. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any person who intends to attend the public hearing and requires special accommodations should contact the IID at (515)281-5705.

Any interested person may make written comments on the proposed amendments on or before 12 noon on April 24, 2003. Written comments should be sent to Rosanne Mead,

INSURANCE DIVISION[191](cont'd)

Assistant Insurance Commissioner, at the address listed above. Comments may be submitted electronically to rosanne.mead@iid.state.ia.us.

These amendments are intended to implement Iowa Code chapter 507B.

The following amendments are proposed.

ITEM 1. Amend **191—Chapter 15** by creating **new** Division I, Sales Practices, consisting of current rules 191—15.1(507B) to 15.14(507B).

ITEM 2. Amend rule **191—15.2(507B)**, definition of "advertisement," numbered paragraph **1**, as follows:

1. Printed and published material, audio and visual material and descriptive literature of an insurer or producer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards, computer on-line networks and similar displays; descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; *and* sales talks, presentations, and material for use by producers~~; and material and oral instruction used by the insurer or producer for the recruitment, training, and education of producers in the sale of insurance~~.

ITEM 3. Amend the following definitions in rule **191—15.2(507B)** as follows:

"Duplicate Medicare supplement insurance" shall mean the sale or the attempt to knowingly sell to ~~a person~~ *an individual* a policy of insurance designed to supplement Medicare benefits as provided in The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as then constituted or later amended when the ~~person~~ *individual* is already insured under such a policy.

"Duplication" means policies of the same coverage type according to minimum standards classifications outlined in 191 IAC 36.6(514D) which overlap to the extent that a reasonable ~~person~~ *individual* would not consider the ownership of the policies to be beneficial.

"Insurer" shall mean any ~~person,~~ corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society, and any other legal entity engaged in the business of insurance.

"Person" shall mean any individual, corporation, association, partnership, trust, ~~or~~ benevolent association *or any other business relationship recognized by law.*

"Preneed funeral contract or prearrangement" shall mean an agreement by or for ~~a person~~ *an individual* before the ~~person's~~ *individual's* death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

"Twisting" shall mean any action by a producer or insurer to induce or attempt to induce any ~~person~~ *individual* to lapse, forfeit, surrender, terminate, retain, assign, borrow, ~~or~~ convert *or withdraw 10 percent or more of the value of* a policy *or an annuity* in order that such ~~person~~ *individual* procure another policy *or annuity*, when such action would operate to the overall detriment of the interests of the ~~person~~ *individual*.

ITEM 4. Amend rule **191—15.2(507B)** by adopting the following **new** definitions in alphabetical order:

"Aftermarket crash parts" means replacement parts as defined in Iowa Code section 537B.4.

"Certificate" means a statement of the coverage and provisions of a policy of group accident and sickness insurance which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

"Institutional advertisement" means an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance.

"Invitation to contract" means an advertisement for accident and sickness insurance that is neither an invitation to inquire nor an institutional advertisement.

"Invitation to inquire" means an advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss for which benefits are payable. An invitation to inquire may not refer to cost but may contain the dollar amount of benefits payable and the period of time during which benefits are payable.

"Limited benefit health coverage" shall have the same meaning as defined in 191—subrule 36.6(10).

"Prominently" or "conspicuously" means that the information to be disclosed will be presented in a manner that is noticeably set apart from other information or images in the advertisement.

ITEM 5. Amend subrule 15.3(1) as follows:

**15.3(1)** Form and content of advertisements. The format and content of an advertisement shall be truthful and sufficiently complete and clear to avoid deception or the capacity or tendency to misrepresent or deceive. Whether an advertisement has a capacity or tendency to misrepresent or deceive shall be determined by the overall impression that the advertisement may be reasonably expected to create upon ~~a person~~ *an individual* in the segment of the public to which it is primarily directed and who has average education, intelligence and familiarity with insurance terminology for products in that market.

*Information regarding exceptions, limitations, reductions and other restrictions required to be disclosed by this rule shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.*

ITEM 6. Amend paragraph **15.3(2)"c"** as follows:

c. No advertisement of a benefit for which payment is conditional upon confinement in hospital or similar facility shall use words or phrases such as "tax free," "extra cash" and substantially similar phrases which have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable ~~a person~~ *an individual* to make a profit from being hospitalized.

ITEM 7. Add **new** paragraph **15.3(2)"h"** as follows:

h. An invitation to inquire shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable]."

ITEM 8. Amend subrule 15.3(3) as follows:

**15.3(3)** Prohibited terms in life insurance and annuity policies. No advertisement for a life insurance or annuity policy shall use the terms "investment," "investment plan," "founder's plan," "charter plan," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," "retirement plan," or other similar term which has the capacity or tendency to mislead an insured or prospective insured to believe that the insurer is offering something other than an insurance policy or some benefit not available to oth-

er ~~persons~~ *individuals* of the same class and equal expectation of life. An advertisement shall not state that there are "no more premiums" or that premiums will "vanish" or "disappear" or use similar terms when such statement is not based on the guaranteed rates.

ITEM 9. Amend subrule **15.3(4)** by adding the following **new** unnumbered paragraph:

An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY," "THIS POLICY PROVIDES LIMITED BENEFITS," or "THIS IS A CANCER-ONLY POLICY."

ITEM 10. Amend paragraph **15.3(9)"b"** as follows:

b. No advertisement shall use any combination of words, symbols, or physical materials which by its content, phraseology, shape, color or other characteristics is so similar to combinations of words, symbols, or physical materials used by a municipal, state or federal agency that it would lead a reasonable ~~person~~ *individual* to believe that the advertisement is approved, endorsed or accredited by an agency of the municipal, state, or federal government.

ITEM 11. Amend rule 191—15.3(507B) by adding **new** subrules 15.3(11) through 15.3(13) as follows:

**15.3(11)** Special offers. Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had the recipient's eligibility for the insurance individually determined in advance when the advertisement is directed to all individuals in a group or to all individuals whose names appear on a mailing list.

**15.3(12)** Disclosure requirement. In an advertisement that is an invitation to contract for an accident and sickness insurance policy that is guaranteed renewable, cancelable or renewable at the option of the company, the advertisement shall disclose that the insurer has the right to increase premium rates if the policy so provides.

**15.3(13)** Group or quasi-group implications.

a. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and, as members, enjoy special rates or underwriting privileges, unless that is the fact.

b. This rule prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements which state or imply that class membership entitles the member to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

c. Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

d. An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct application required need not be on a separate document or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, the use of terms such as "enroll" or "join" to imply group or blanket insurance coverage is prohibited when that is not the fact.

e. Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

ITEM 12. Amend rule 191—15.5(507B) as follows:

**191—15.5(507B) Health insurance sales to ~~persons~~ *individuals* 65 years of age or older.**

~~**15.5(1)**~~ The sale of duplicate Medicare supplement insurance is prohibited.

~~**15.5(2)** Prohibition of sale without acknowledgment of nonduplication.~~

~~a. Insurers or producers shall obtain an acknowledgment of nonduplication as set forth in Appendix II with all applications for any type of health insurance sold to an individual who is 65 years of age or older. This acknowledgment shall be obtained at the same time as the application and shall be submitted to the insurer with the application.~~

~~b. In order to obtain this acknowledgment, insurers or producers shall offer to examine all health insurance policies owned by a prospective purchaser and advise that person as to whether the purchase of the proposed policy will result in any duplication of benefits.~~

~~c. Insurers who do not use producers shall implement a similar system of review at no cost to the proposed insured.~~

ITEM 13. Amend paragraph **15.8(2)"c"** as follows:

c. Producers and insurers shall not, without good cause:

(1) Fail or refuse to furnish any ~~person~~ *individual*, upon reasonable request, information to which that ~~person~~ *individual* is entitled, or to respond to a formal written request or complaint from any ~~person~~ *individual*.

(2) Sell an insurance policy or rider to ~~a person~~ *an individual* which is a duplication of a policy or rider which the ~~person~~ *individual* owns or for which the ~~person~~ *individual* has applied at the time of sale.

ITEM 14. Amend subrule 15.8(3) as follows:

**15.8(3)** Prohibited designations and fees.

a. ~~A producer shall not represent, directly or indirectly, that the producer is a "financial planner," "investment adviser," "financial counselor," or any other specialist engaged in the business of giving financial planning or advice relating to investments, insurance, real estate, tax matters or trust and estate matters when the sole intent of the producer is to engage in the sale of insurance. This subrule does not prohibit the use of designations acquired through a recognized national program.~~

*When an insurance producer is engaged only in the sale of insurance policies or annuities, the insurance producer shall not hold the producer out, directly or indirectly, to the public as a "financial planner," "investment adviser," "consultant," "financial counselor," or any other specialist solely engaged in the business of financial planning or giving advice relating to investments, insurance, real estate, tax matters or trust and estate matters. This provision does not preclude insurance producers who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance.*

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*b. An insurance producer shall not engage in the business of financial planning without disclosing to the client prior to the execution of the agreement required by paragraph "c" or to the solicitation of the sale of a product or service that the producer is also an insurance producer and that a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case. The disclosure requirement under this paragraph may be met by including the disclosure in any disclosure required by federal or state securities law.*

*c. An insurance producer shall not charge fees other than commissions for financial planning, unless such fees are based upon a written agreement signed by the client in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the client at the time the agreement is signed by the client. The agreement must specifically state:*

*(1) The service for which the fee is to be charged;*

*(2) The amount of the fee to be charged or how it will be determined or calculated; and*

*(3) That the client is under no obligation to purchase any insurance product through the insurance producer or consultant.*

*The insurance producer shall retain a copy of the agreement for not less than three years after completion of services, and a copy shall be available to the commissioner upon request.*

~~b~~ *d.* Producers shall not charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies. This prohibition shall not apply to assigned risk policies and commercial property~~/~~ *and* casualty policies. Any additional fee that a producer intends to charge for assigned risk policies and commercial property~~/~~ *and* casualty policies must be fully disclosed to the insured.

ITEM 15. Amend rule 191—15.9(507B) as follows:

**191—15.9(507B) Right to return a life insurance policy or annuity (free look).** The owner of an individual policy has the right, within ten days after receipt of a life insurance policy or annuity, to a free-look period. During this period, the policyowner may return the life insurance policy or annuity to the insurer at its home office, branch office, or to the producer through whom it was purchased. If so returned, the premium paid will be promptly refunded, the policy or annuity voided and the parties returned to the same position as if a policy or annuity had not been issued. *If the transaction involved a replacement, the length of the free-look period will be determined according to 191—Chapter 16.*

*If the transaction involved a variable product, the amount to be refunded shall be determined according to the policy language. The calculations must comply with the relevant rule in either 191—Chapter 16, Replacement of Life Insurance and Annuities, or 191—Chapter 33, Variable Life Insurance Model Regulation.*

ITEM 16. Amend paragraph **15.11(1)"a"** as follows:

a. A contract shall not be denied to ~~a person~~ *an individual* based solely on that individual's sex or marital status. No benefits, terms, conditions or type of coverage shall be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured except to the extent permitted under the Iowa Code or Iowa Administrative Code. An insurer may consider marital status for the purpose of defining ~~persons~~ *individuals* eligible for dependents' benefits. This subrule does not apply to group life insurance policies or group annuity contracts issued in connection with pension and welfare plans which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

ITEM 17. Amend subparagraph **15.11(1)"b"(1)** as follows:

(1) Denying coverage to ~~persons~~ *individuals* of one sex employed at home, employed part-time or employed by relatives when coverage is offered to ~~persons~~ *individuals* of the opposite sex similarly employed.

ITEM 18. Amend subrule 15.11(3), introductory paragraph and paragraph **"a,"** as follows:

**15.11(3)** Income discrimination. An insurer shall not refuse to issue, limit the amount or apply different rates to ~~persons~~ *individuals* of the same class in the sale of individual life insurance based solely upon the prospective insured's legal source or level of income, unless such action is based on sound actuarial principles or is related to actual or reasonably anticipated experience. The portion of this subrule pertaining to level of income does not:

a. Apply to the sale of disability income insurance of any kind or of any insurance designed to protect against economic loss due to a disruption in the regular flow of ~~a person's~~ *an individual's* earned income;

ITEM 19. Amend subrule 15.11(4) as follows:

**15.11(4)** Domestic abuse. A contract shall not be denied to ~~a person~~ *an individual* based solely on the fact *that* such ~~person~~ *individual* has been or is believed to have been a victim of domestic abuse as defined in Iowa Code section 236.2.

ITEM 20. Amend subrule 15.12(1), introductory paragraph, as follows:

**15.12(1)** Written release. No insurer shall obtain a test of any ~~person~~ *individual* in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the ~~person~~ *individual* to be tested provides a written release on a form which contains the following information:

ITEM 21. Amend rule 191—15.13(507B) by adding the following **new** subrule:

**15.13(3)** Education and training materials. Every insurer shall establish and maintain a system of control over the content and form of all material used by the insurer or any of its appointed producers for the recruitment, training, and education of producers in the sale of insurance. Upon request, copies of these materials shall be made available to the commissioner.

ITEM 22. Renumber rules **191—15.15(507B)** as **191—15.45(507B)**, **191—15.16(507B)** as **191—15.33(507B)**, and **191—15.17(507B)** as **191—15.32(507B)**, and reserve rule numbers 191—15.15 to 15.30 in Division I.

ITEM 23. Adopt **new** Division II, Claims, to consist of rules 191—15.31 to 15.50.

ITEM 24. Adopt **new** rule 191—15.31(507B) as follows:

**191—15.31(507B) General claims settlement guidelines.**

**15.31(1)** No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

**15.31(2)** If an insurer receives a written grievance or objection to a settlement offer, the insurer shall notify the claimant in writing that the claimant may have the matter reviewed by the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; toll-free number 1-877-955-1212.

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This notification may be provided to the claimant as a part of the same communication to the claimant that contains an offer of settlement or denial of a claim. This subrule does not apply to health claims that are subject to the external review provisions of Iowa Code chapter 514J.

ITEM 25. Amend renumbered rule 191—15.32(507B) as follows:

Amend the catchwords as follows:

**191—15.32(507B) Prompt payment of *certain health* claims.**

Amend renumbered subrule **15.32(1)**, paragraph **"a,"** definition of "coordination of benefits for third-party liability," as follows:

"Coordination of benefits for third-party liability" means a claim for benefits by a covered ~~person~~ *individual* who has coverage under more than one health benefit plan.

ITEM 26. Reserve rules **191—15.34** to **15.40**.

ITEM 27. Adopt the following **new** rules:

**191—15.41(507B) Claims settlement guidelines for property and casualty insurance.** For purposes of this rule, "insurer" means property and casualty insurers.

**15.41(1)** An insurer shall fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.

**15.41(2)** Within 30 days after receipt by the insurer of properly executed proofs of loss, the first-party property claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain documentation of the denial.

When there is a reasonable basis supported by specific information available for review by the commissioner that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(3)** If the insurer needs more time to determine whether a first-party claim should be accepted or denied, the insurer shall so notify the first-party claimant within 30 days after receipt of the proof of loss and give the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

When there is a reasonable basis supported by specific information available for review by the commissioner for suspecting that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(4)** Insurers shall not fail to settle first-party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

**15.41(5)** No insurer shall make statements indicating that the rights of a third-party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third-party claimant of the provision of a statute of limitations.

**15.41(6)** The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within 30 days of affirmation of liability, if the amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments which are not in dispute under one of the coverages and where the payee is known should be tendered within 30 days if such payment would terminate the insurer's known liability under that coverage.

**15.41(7)** No producer shall conceal from a first-party claimant benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

**15.41(8)** A claim shall not be denied on the basis of failure to exhibit property unless there is documentation of breach of the policy provisions to exhibit or cooperate in the claim investigation.

**15.41(9)** No insurer shall deny a claim based upon the failure of a first-party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition. An insurer may deny a claim if the claimant's failure to give written notice after being requested to do so is so unreasonable as to constitute a breach of the claimant's duty to cooperate with the insurer.

**15.41(10)** No insurer shall indicate to a first-party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract.

**15.41(11)** No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

**191—15.42(507B) Acknowledgment of communications by property and casualty insurers.** For purposes of this rule, "insurer" means property and casualty insurers.

**15.42(1)** Upon receiving notification of a claim, an insurer shall, within 15 days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgment is made by means other than in writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated.

**15.42(2)** Upon receipt of any inquiry from the Iowa insurance division regarding a claim, an insurer shall, within 21 days of receipt of such inquiry, furnish the division with an adequate response to the inquiry, in duplicate.

**15.42(3)** The insurer shall reply within 15 days to all pertinent communications from a claimant which reasonably suggest that a response is expected.

**15.42(4)** Upon receiving notification of claim, an insurer shall promptly provide necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this subrule within 15 days of notification of a claim shall constitute compliance with subrule 15.42(1).

**191—15.43(507B) Standards for settlement of automobile insurance claims.**

**15.43(1)** Loss calculation and deviation guidelines.

a. Loss calculation. When the insurance policy provides for the adjustment and settlement of first-party automobile total losses on the basis of actual cash value or replacement

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with another automobile of like kind and quality, one of the following methods shall apply:

(1) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. All applicable taxes, license fees and other fees incident to the transfer of evidence of ownership of the automobile shall be paid by the insurer, at no cost to the insured, other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:

1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last 90 days to consumers in the local market area; or

2. The cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90 days to consumers when comparable automobiles are not available in the local market area; or

3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area when the cost of comparable automobiles is not available; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:

- The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area.
- The source's database shall produce values for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for such vehicles.
- The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to ensure statistical validity.

(3) If the insurer is notified within 35 days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle for such market value, the insured shall have a right of recourse. The insurer shall reopen its claim file and the following procedure(s) shall apply:

1. The insurer may locate a comparable vehicle by the same manufacturer, same or newer year, similar body style and similar options and price range for the insured for the market value determined by the insurer at the time of settlement. Any such vehicle must be available through a licensed dealer; or

2. The insurer shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured; or

3. The insurer may elect to offer a replacement in accordance with the provisions set forth in subrule 15.43(1); or

4. The insurer may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or a common law.

The insurer is not required to take action under this subrule if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same or newer year, similar body style and similar options in as good or better condition as the total-loss vehicle which could have been purchased for the market value determined by the insurer before applicable deductions. The documentation shall include the vehicle identification number.

b. Deviation. When a first-party automobile total loss is settled on a basis which deviates from the methods described in paragraph "a," the deviation must be supported by documentation giving particulars of the automobile's condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first-party claimant.

**15.43(2)** When liability and damages are reasonably clear, an insurer shall not recommend that third-party claimants make claims under their own policies solely to avoid paying claims under the insurer's policy.

**15.43(3)** The insurer shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

**15.43(4)** The insurer shall, upon the claimant's request, include the first-party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses shall be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro-rata share of the allocated loss adjustment expense.

**15.43(5)** Vehicle repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which the insured obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall (1) pay the difference between the written estimate and a higher estimate obtained by the insured, or (2) promptly provide the insured with the name of at least one repair shop that will make the repairs for the amount of the written estimate. If the insurer designates only one or two such repair shops, the insurer shall ensure that the repairs are performed according to automobile industry standards. The insurer shall maintain documentation of all such communications.

**15.43(6)** When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

**15.43(7)** When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall

cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy, within a reasonable period of time.

**15.43(8)** Storage and towing. The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges. The insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment. Unless the insurer has provided an insured with the name of a specific towing company prior to the insured's use of another towing company, the insurer shall pay all reasonable towing charges.

**15.43(9)** Betterment.

a. Betterment deductions are allowable only if the deductions reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle. Betterment deductions may also reflect the general overall condition of the vehicle, considering its age, for wear and tear or rust, which unless specifically documented and justified are limited to a deduction of $1,000. Betterment deductions may reflect a missing part(s) and are limited to no more than the replacement cost and costs of installation.

b. Betterment deductions must be measurable, itemized, specified as to dollar amount and documented in the claim file.

c. The insurer shall not require the insured or claimant to supply parts for replacement.

**15.43(10)** Diminished value. In the case of a third-party claim for repair of a vehicle, the third-party claimant shall receive reimbursement for diminished value as an additional measure of damages if the vehicle cannot be repaired to its preaccident condition as measured by market value.

**191—15.44(507B) Standards for determining replacement cost and actual cost values.**

**15.44(1)** Replacement cost. When the policy provides for the adjustment and settlement of first-party losses based on replacement cost, the following shall apply:

a. When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss. The insured shall not have to pay for betterment or any other cost except for the applicable deductible.

b. When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace as much of the item as is necessary to result in a reasonably uniform appearance. This applies to interior and exterior losses. Exceptions may be made on a case-by-case basis for weathering or for instances where a floor covering that is uniform throughout a building is damaged in only one room. The insured shall not bear any cost over the applicable deductible, if any.

**15.44(2)** Actual cash value.

a. When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine the actual cash value. "Actual cash value" means replacement cost of property at time of loss, less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of the claim file worksheet(s) detailing any and all deductions for depreciation.

b. In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

ITEM 28. Amend renumbered rule 191—15.45(507B) as follows:

**191—15.45(507B) ~~Use~~ *Guidelines for use* of aftermarket crash parts in ~~automobile insurance policies—notice required~~ *motor vehicles*.**

***15.45(1)*** *Identification. All aftermarket crash parts supplied for use in this state shall comply with the identification requirements of Iowa Code section 537B.4.*

***15.45(2)*** *Like kind and quality. An insurer shall not require the use of aftermarket crash parts in the repair of an automobile unless the aftermarket crash part is certified by a nationally recognized entity such as the Certified Automotive Parts Association (CAPA) or QS 9000 to be at least equal in kind and quality to the original equipment manufacturer part in terms of fit, quality and performance. An insurer specifying the use of aftermarket crash parts shall consider the cost of any modifications which may become necessary when making the repair.*

**15.45(~~1~~ *3*)** Contents of notice. Any automobile insurance policy delivered in this state that pays benefits based on the cost of aftermarket crash parts ~~as defined in Iowa Code chapter 537B~~ or that requires the insured to pay the difference between the cost of original equipment manufacturer parts and the cost of aftermarket crash parts shall include a notice which contains and is limited to the following language:

NOTICE—

PAYMENT FOR AFTERMARKET CRASH PARTS

Physical damage coverage under this policy includes payment for aftermarket crash parts. If you repair the vehicle using more expensive original equipment manufacturer (OEM) parts, you may pay the difference. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.

**15.45(~~2~~ *4*)** No change.

ITEM 29. Reserve rules **191—15.46** to **15.50**.

ITEM 30. Adopt **new** Division III as follows:

DIVISION III

DISCLOSURE FOR SMALL FACE AMOUNT

LIFE INSURANCE POLICIES

**191—15.51(507B) Purpose.** The purpose of these rules is to ensure the provision of meaningful information to the purchasers of small face amount life insurance policies.

**191—15.52(507B) Definition.** "Small face amount policy" means a life insurance policy or certificate with an initial face amount of $15,000 or less.

**191—15.53(507B) Exemptions.** These rules apply to all group and individual life insurance policies and certificates except:

1. Variable life insurance;
2. Individual and group annuity contracts;
3. Credit life insurance;
4. Group or individual policies of life insurance issued to members of an employer group or other permitted group when:

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• Every plan of coverage was selected by the employer or other group representative;
• Some portion of the premium is paid by the group or through payroll deduction; and
• Group underwriting or simplified underwriting is used;

5. Policies and certificates where an illustration has been provided pursuant to the requirements of 191—Chapter 14.

**191—15.54(507B) Disclosure requirements.**

**15.54(1)** An insurer issuing a small face amount policy shall provide the disclosure included in Appendix IV if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.

**15.54(2)** If, for a particular policy form, the cumulative premiums may exceed the face amount for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

a. Provide the disclosure only in those circumstances when the premiums may exceed the face amount; or

b. Provide the disclosure for all demographic and benefit combinations.

**15.54(3)** Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.

**191—15.55(507B) Insurer duties.** The insurer and its producers shall have a duty to provide information to policyholders or certificate holders that ask questions about the disclosure statement.

**191—15.56** to **15.60** Reserved.

ITEM 31. Adopt **new** Division IV, consisting of the NAIC Annuity Disclosure Model Regulation, as follows:

DIVISION IV
ANNUITY DISCLOSURE REQUIREMENTS

**191—15.61(507B) Purpose.** The purpose of these rules is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and to foster consumer education. The rules specify the minimum information which must be disclosed and the method for disclosing it in connection with the sale of annuity contracts. The goal of these rules is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

**191—15.62(507B) Applicability and scope.** These rules apply to all group and individual annuity contracts and certificates except:

**15.62(1)** Registered or nonregistered variable annuities or other registered products;

**15.62(2)** Immediate and deferred annuities that contain no nonguaranteed elements;

**15.62(3)** Annuities used to fund:

a. An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

b. A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

c. A governmental or church plan defined in Section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

This subrule shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subrule, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

**15.62(4)** Structured settlement annuities; and

**15.62(5)** Charitable gift annuities.

**191—15.63(507B) Definitions.** For purposes of these rules:

"Contract owner" means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

"Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after the contract is issued. These elements include the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, or charges, or elements of formulas used to determine any of these elements. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

"Generic name" means a short title descriptive of the annuity contract for which application is made or an illustration is prepared, such as "single premium deferred annuity."

"Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, or charges, or elements of formulas used to determine any of these elements, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

"Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, or charges, or elements of formulas used to determine any of these elements, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

"Structured settlement annuity" means a "qualified funding asset" as defined in Section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

**191—15.64(507B) Standards for delivery of disclosure document and Buyer's Guide.**

**15.64(1)** Delivery requirement. When an insurer or an insurance producer receives an application for an annuity contract, the insurer or insurance producer shall provide the applicant, at or before the time of application, the disclosure document described in rule 191—15.65(507B) and the Buyer's Guide to Fixed Deferred Annuities, hereafter "the Buyer's Guide," in the current form prescribed by the National

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Association of Insurance Commissioners or in language approved by the commissioner of insurance.

**15.64(2)** Delivery methods. The documents required under this rule may be delivered as follows:

a. When an application for an annuity contract is taken in a face-to-face meeting with an insurance producer, the insurance producer shall provide the disclosure document and the Buyer's Guide at or before the time of application.

b. When an application for an annuity contract is taken by means other than a face-to-face meeting, the insurer shall send the applicant both the disclosure document and the Buyer's Guide no later than five business days after the completed application is received by the insurer.

c. When an application is received as a result of a direct solicitation through the mail, the insurer may provide the Buyer's Guide and the disclosure document in the mailing which invites prospective applicants to apply for an annuity contract.

d. When an application is received via the Internet, the insurer may comply with this rule by taking reasonable steps to make the Buyer's Guide and disclosure document available for viewing and printing on the insurer's Web site.

**15.64(3)** A solicitation for an annuity contract which occurs other than in a face-to-face meeting shall include a statement that the proposed applicant may contact the Iowa insurance division for a free annuity Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity Buyer's Guide.

**15.64(4)** When the Buyer's Guide and disclosure document are not provided at or before the time of application, a free-look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

**191—15.65(507B) Content of disclosure documents.** At a minimum, the following information shall be included in the disclosure document:

**15.65(1)** The generic name of the contract, the company product name, if different, and form number and the fact that it is an annuity;

**15.65(2)** The insurer's name and address;

**15.65(3)** A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate, including but not limited to:

a. The guaranteed, nonguaranteed and determinable elements of the contract, and the limitations of those elements, if any, and an explanation of how the elements and limitations operate;

b. An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

c. Periodic income options both on a guaranteed and nonguaranteed basis;

d. Any value reductions caused by withdrawals from or surrender of the contract;

e. How values in the contract can be accessed;

f. The death benefit, if available, and how it will be calculated;

g. A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

h. Impact of any rider, such as a long-term care rider;

**15.65(4)** Specific dollar amount or percentage charges and fees, listed with an explanation of how they apply; and

**15.65(5)** Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

The insurer shall define terms used in the disclosure statement in language that facilitates understanding by a typical individual within the segment of the public to which the disclosure statement is directed.

**191—15.66(507B) Report to contract owners.** For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

1. The beginning and ending date of the current report period;

2. The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

3. The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

4. The amount of outstanding loans, if any, as of the end of the current report period.

**191—15.67(507B) Severability.** If any provision of these rules or their application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

ITEM 32. Rescind 191—Chapter 15, **Appendix II**, and renumber **Appendixes III** and **IV** as **II** and **III**.

ITEM 33. Adopt **new** 191—Chapter 15, Appendix IV, as follows:

Appendix IV
DISCLOSURE FORM FOR SMALL FACE LIFE INSURANCE POLICIES

**Important Information About Your Policy**

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for your policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if applicable, and changes in the face amount.

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- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.
- Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

**If You Change Your Mind . . .**

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

**Contact Information**

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and Web site (if available)].

# ARC 2369B

# IOWA FINANCE AUTHORITY[265]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 3, "Multifamily Preservation Loan Program," Iowa Administrative Code.

These amendments revise the current Chapter 3 by splitting it into two divisions. Division I of Chapter 3 will contain rules pertaining to the multifamily preservation loan program, while Division II proposed herein will consist of rules pertaining to a predevelopment loan fund. In addition, these amendments outline the application procedure, loan fund guidelines, and other necessary requirements of the predevelopment loan fund.

These amendments do not contain a waiver provision as the Authority does not intend to grant waivers under the predevelopment loan fund, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed amendments until 4 p.m. on April 22, 2003. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309; faxed to (515)242-4957; or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

These amendments are intended to implement Iowa Code sections 16.5(17), 16.18(1) and 16.18(2).

The following amendments are proposed.

ITEM 1. Amend **265—Chapter 3**, title, as follows:

CHAPTER 3
MULTIFAMILY ~~PRESERVATION LOAN PROGRAM~~
*HOUSING*

ITEM 2. Amend **265—Chapter 3** by inserting the following **new** division heading before rule 265—3.1(16):

DIVISION I
MULTIFAMILY PRESERVATION LOAN PROGRAM

ITEM 3. Reserve rules **265—3.9** through **265—3.19**.

ITEM 4. Amend **265—Chapter 3** by adopting the following **new** division:

DIVISION II
PREDEVELOPMENT LOAN FUND

**265—3.20(16) Purpose.** Through its predevelopment loan fund (fund), the authority seeks to expand the ability of nonprofit organizations to utilize the authority's multifamily preservation loan program (program) by offering low-cost predevelopment loans for which reasonable financing through traditional lenders or other government financing is not readily available.

**265—3.21(16) Available funds.** The authority anticipates that it will, from time to time, publicize on the authority's Web site at www.ifahome.com the approximate amount of funds available for predevelopment loans.

**265—3.22(16) Intent of the authority.** It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this fund, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of loans under this fund.

**265—3.23(16) Application procedure.** Applications for assistance under this fund must be made on forms and in the manner provided by the authority. Inquiries with respect to this fund should be made to those persons identified on the authority's Web site as contacts for the program and the fund. Once contacted with an inquiry, the authority will send an application package to the potential applicant. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to preserve affordable housing in the state.

**265—3.24(16) Fund guidelines.** A nonprofit sponsor is eligible to apply for assistance from the fund relating to a specific project provided that the nonprofit sponsor intends to apply for a multifamily preservation loan under the program for the same project.

**3.24(1)** Loans may be made to nonprofit sponsors only with respect to projects that meet the criteria detailed in subrule 3.5(1).

**3.24(2)** The following types of activities and costs, to the extent approved by the authority, are eligible for assistance:

IOWA FINANCE AUTHORITY[265](cont'd)

architect services, engineering services, attorney's fees, accounting fees, environmental consultants and reports, finance and development consultants, tax credit consultants, market studies, survey fees, appraisal costs, and such other similar activities as may be determined by the authority from time to time to fall within the guidelines and purposes established for loans under the fund.

**3.24(3)** Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is $2,500, and the maximum loan amount is $25,000.

b. The loan will be due on the earlier of (1) 12 months from the date it is issued or (2) the closing of the authority's first mortgage loan for the project under the program. The authority may extend the loan term as it deems necessary.

c. Principal and interest payments will be due at loan maturity and may be paid from the proceeds of a loan under the program.

d. Interest rates will be set by the authority, in its sole discretion, based on a spread to a widely used market index, such as but not limited to one-year rates for advances from the Federal Home Loan Bank of Des Moines. The authority will publicize the index and spread on its Web site at www.ifahome.com.

e. Recipients must execute such documents and instruments, and must provide such information, certificates and other items, as determined necessary by the authority, in its sole discretion, in connection with any assistance.

**265—3.25(16) Authority analysis of applications.** Authority staff will analyze each potential loan and will make recommendations for funding assistance to the board of directors of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this fund.

**265—3.26(16) Discretion of authority board.** The authority's board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

**265—3.27(16) Closing/advance of funds.** If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and to, accordingly, not advance any funds for such project.

**265—3.28** through **265—3.30** Reserved.

ITEM 5. Amend **265—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.5(17)*, 16.18(1)* and 16.18(2).

# ARC 2368B

# IOWA FINANCE AUTHORITY[265]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 15, "Housing Assistance Fund (HAF)," Iowa Administrative Code.

These amendments will expand the available uses of funds granted to local housing trust funds and extend the interest rate reduction under the single family construction loan program to those homes that are purchased by borrowers using the authority's FirstHome Program.

These rules do not contain a waiver provision as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed amendments until 4 p.m. on April 22, 2003. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309; faxed to (515)242-4957; or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

These amendments are intended to implement Iowa Code section 16.5(17).

The following amendments are proposed.

ITEM 1. Amend numbered paragraph **15.8(1)"a"(4)"12"** as follows:

12. Interest rate will be based on Fannie Mae loan-out rate, or as determined by the authority. If the house is sold to families whose income is at or below 80 percent of the area median income *or to families using the authority's firsthome program*, the interest rate will be 3 percent for the term of the loan; and the gap financing subsidy grants will be up to an amount of $15,000 each; and

ITEM 2. Amend subparagraph **15.8(3)"c"(2)** as follows:

(2) The eligible uses for ~~this matching three-year grant~~ *grants under this category* are to fund programs that serve primarily ~~low-income~~ *lower-income* families ~~and coordinate development activities and services to the homeless and the spectrum of local nonprofit housing providers~~*, including but not limited to programs or projects for construction, rehabilitation, capacity building, technical assistance and public education and other programs and uses that benefit and expand affordable housing*.

# ARC 2388B

# NATURAL RESOURCE COMMISSION[571]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 456A.24(14) and 481A.134, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, "General License Restrictions," Iowa Administrative Code.

The Department proposes to amend Chapter 15 by adopting new rule 571—15.13(456A). This new rule is proposed in order to carry out the duties of the state pursuant to the Wildlife Violator Compact entered into between the Department and other states that have adopted the Compact. Approximately 18 other states have entered into the Compact at this time.

The purpose of the Wildlife Violator Compact is to ensure that out-of-state hunters and anglers resolve pending enforcement actions through payment of fines or other court resolution. The Compact provides for suspension of licenses by the sportsperson's home state for failure to resolve a pending out-of-state enforcement action. The Compact also provides for reciprocal suspension of violators who are suspended in other states.

Any interested person may make written comments on this proposed amendment on or before April 22, 2003. Such written materials should be directed to the Law Enforcement Bureau, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact Steve Dermand of the Law Enforcement Bureau at (515) 281-4515.

A public hearing will be held on April 22, 2003, at 2 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 456A.24(14).

The following amendment is proposed.

Amend 571—Chapter 15 by adopting the following **new** rule:

**571—15.13(456A) Wildlife violator compact.** The department has entered into the wildlife violator compact (the compact) with other states for the uniform enforcement of license suspensions. The compact, a copy of which may be obtained by contacting the department's law enforcement bureau, is adopted herein by reference. The procedures set forth in this rule shall apply to license suspensions pursuant to the wildlife violator compact.

**15.13(1)** Definitions.

"Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or through the payment of all fines, costs, and surcharges, if any.

"Department" means the Iowa department of natural resources.

"Home state" means the state of primary residence of a person.

"Issuing state" means a participating state that issues a fish or wildlife citation to a person.

"License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any fish or wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

"Participating state" means any state which enacts legislation to become a member of the wildlife violator compact. Iowa is a participating state pursuant to Iowa Code section 456A.24(14).

**15.13(2)** Suspension of licenses for noncompliance. Upon the receipt of a valid Notice of Failure to Comply, as defined in the compact, the department shall issue a notice of suspension to the Iowa resident. The notice of suspension shall:

a. Indicate that all department-issued hunting (including furbearer) or fishing licenses shall be suspended, effective 30 days from the receipt of the notice, unless the department receives proof of compliance.

b. Inform the violator of the facts behind the suspension with special emphasis on the procedures to be followed in resolving the matter with the court in the issuing state. Accurate information in regard to the court (name, address, telephone number) must be provided in the notice of suspension.

c. Notify the license holder of the right to appeal the notice of suspension within 30 days of receipt. Said appeal shall be conducted pursuant to 571—Chapter 7 but shall be limited to the issues of whether the person so notified has a pending charge in the issuing state, whether the person has previously received notice of the violation from the issuing state, and whether the pending charge is subject to a license suspension for failure to comply pursuant to the terms of the compact.

d. Notify the license holder that, prior to the effective date of suspension, a person may avoid suspension through an appearance in the court with jurisdiction over the underlying violations or through the payment of all fines, costs, and surcharges associated with the violations.

e. Indicate that, once a suspension has become effective, the suspension may only be lifted upon the final resolution of the underlying violations.

**15.13(3)** Reinstatement of licenses. Any license suspended pursuant to this rule may be reinstated upon the receipt of an acknowledgment of compliance from the issuing state, a copy of a court judgment, or a certificate from the court with jurisdiction over the underlying violations and the payment of applicable Iowa license fees.

**15.13(4)** Issuance of notice of failure to comply. When a nonresident is issued a citation by the state of Iowa for violations of any provisions under the jurisdiction of the natural resource commission which is covered by the suspension procedures of the compact and fails to timely resolve said citation by payment of applicable fines or by properly contesting the citation through the courts, the department shall issue a notice of failure to comply.

NATURAL RESOURCE COMMISSION[571](cont'd)

a. The notice of failure to comply shall be delivered to the violator by certified mail, return receipt requested, or by personal service.

b. The notice of failure to comply shall provide the violator with 14 days to comply with the terms of the citation. The violator may avoid the imposition of the suspension by answering a citation through an appearance in a court or through the payment of all fines, costs, and surcharges, if any.

c. If the violator fails to achieve compliance, as defined in this rule, within 14 days of receipt of the notice of failure to comply, the department shall forward a copy of the notice of failure to comply to the home state of the violator.

**15.13(5)** Issuance of acknowledgment of compliance. When a person who has previously been issued a notice of failure to comply achieves compliance, as defined in this rule, the department shall issue an acknowledgment of compliance to the person who was issued the notice of failure to comply.

**15.13(6)** Reciprocal recognition of suspensions. Upon receipt of notification from a state that is a member of the wildlife violator compact that the state has suspended or revoked any person's hunting or fishing license privileges, the department shall:

a. Enter the person's identifying information into the records of the department.

b. Deny all applications for licenses to the person for the term of the suspension or until the department is notified by the suspending state that the suspension has been lifted.

This rule is intended to implement Iowa Code section 456A.24(14).

# ARC 2375B

# NURSING BOARD[655]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments impose a convenience fee on nurses renewing licenses online and reference this fee in the definition of "repayment receipts." The convenience fee will support the costs associated with the software and hardware to maintain the system.

Any interested person may make written comments or suggestions on or before April 22, 2003. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

These amendments are intended to implement Iowa Code chapters 147 and 152.

The following amendments are proposed.

ITEM 1. Amend rule **655—3.1(17A,147,152,272C)**, definition of "fees," by adding the following **new** numbered paragraph **15**:

15. For the convenience of online license renewal, $4, plus the renewal fee as specified in paragraph "8" of this definition.

ITEM 2. Amend rule **655—3.1(17A,147,152,272C)**, definition of "repayment receipts," to read as follows:

"Repayment receipts" means those moneys collected by a department or establishment that supplement an appropriation made by the legislature. Repayment receipts, as defined in Iowa Code section 8.2, apply to the definition of "fees," paragraphs "5," "6," "9," "12," ~~and~~ "13~~,~~" *and "15,"* ~~of~~ *in* this rule.

# ARC 2374B

# NURSING BOARD[655]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

This amendment clarifies that registered nurses may delegate nonlifesaving procedures to emergency medical services (EMS) personnel based on the EMS employee's level of certification and job description.

Any interested person may make written comments or suggestions on or before April 22, 2003. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

This amendment is intended to implement Iowa Code chapter 152.

The following amendment is proposed.

Amend subrule **6.2(5)**, paragraph **"c,"** to read as follows:

c. Using professional judgment in assigning and delegating activities and functions to unlicensed assistive personnel. Activities and functions which are beyond the scope of practice of the licensed practical nurse may not be delegated to unlicensed assistive personnel. *For the purposes of this paragraph, "unlicensed assistive personnel" does not include certified emergency medical services personnel authorized under Iowa Code chapter 147A performing nonlifesaving procedures for which those individuals have been certified and which are designated in a written job description, after the patient is observed by a registered nurse.*

## ARC 2372B

# NURSING BOARD[655]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

These amendments allow the licensed practical nurse in an end-stage renal dialysis unit (ESRD) to administer local anesthesia prior to cannulation of the vascular access site. The amendments also permit the licensed practical nurse to administer, via the extracorporeal circuit, specific routine intravenous medications.

Any interested person may make written comments or suggestions on or before April 22, 2003. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

These amendments are intended to implement Iowa Code chapter 152.

The following amendments are proposed.

Amend subrule **6.3(4)** by amending paragraph **"b"** and adopting **new** paragraph **"d"** as follows:

b. The administration of local anesthetic prior to cannulation of the ~~peripheral~~ vascular access site.

*d. The administration via the extracorporeal circuit of the routine intravenous medications erythropoietin, Vitamin D Analog and iron, excluding any iron preparation that requires a test dose in a certified end-stage renal dialysis setting, after the registered nurse has administered the first dose. When the registered nurse delegates the administration of the intravenous medications set out in this paragraph, there must be a written facility policy that defines the practice and written verification of the competency of the licensed practical nurse in accordance with the facility's written policy.*

## ARC 2373B

# NURSING BOARD[655]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

This amendment will allow the licensed practical nurses employed by WIC clinics to perform specific functions without on-site supervision of the registered nurse.

Any interested person may make written comments or suggestions on or before April 22, 2003. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

This amendment is intended to implement Iowa Code chapter 152.

The following amendment is proposed.

Amend rule 655—6.6(152) by adding the following **new** subrule:

**6.6(6)** The licensed practical nurse shall be permitted to conduct height, weight and hemoglobin screening and record responses to health questions asked in a standardized questionnaire under the supervision of a registered nurse in a Women, Infants and Children (WIC) clinic. A registered nurse employed by or under contract to the WIC agency will assess the competency of the licensed practical nurse to perform these functions and will be available for consultation. The licensed practical nurse is responsible for performing under the scope of practice for licensed practical nurses and requesting registered nurse consultation as needed. This exception to the proximate area requirement is limited to WIC clinics and to the services permitted in this subrule.

## ARC 2367B

# PERSONNEL DEPARTMENT[581]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 97B.15, the Department of Personnel hereby gives Notice of Intended Action to amend Chapter 21, "Iowa Public Employees' Retirement System," Iowa Administrative Code.

These proposed amendments clarify excluded wages under other special payment arrangements; remove a sunset date for certain rules governing coverage of contributions to IRC Section 125 cafeteria plans; rescind the subrule regarding emergency refunds as requests for refunds are processed daily; implement the statutory contribution rates for special service members recommended by IPERS' actuary pursuant to Iowa Code sections 97B.49B and 97B.49C; clarify language relating to IPERS options that include contingent annuitants; allow IPERS to rely on additional resources for proof of date of birth; clarify point of contact for benefit calculations; and clarify information provided to IPERS' actuary for member service purchase cost quotes.

These amendments were prepared after consultation with the IPERS legal, accounting and benefits units.

PERSONNEL DEPARTMENT[581](cont'd)

There are no waiver provisions included in the proposed amendments because they confer benefits or are required by statute.

Any person may make written suggestions or comments on the proposed amendments on or before April 22, 2003. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045, or by E-mail to info@ipers.org.

There will be a public hearing on April 22, 2003, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the proposed amendments.

These amendments are intended to implement Iowa Code chapter 97B.

The following amendments are proposed.

ITEM 1. Amend paragraph **21.4(1)"g"** as follows:

g. Other special payment arrangements. Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This includes, but is not limited to, the practice of increasing an employee's wages by the employer's share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. ~~Wages do not include employer contributions (excluding employee contributions) to a plan, program, or arrangement whereby the amounts contributed are not included in the member's federal taxable income.~~ *Wages do not include employer contributions to a plan, program or arrangement that are not included in the employee's federal taxable income. However, certain employer contributions permitted to be treated as covered wages under subrule 21.4(4) may be covered under that subrule.*

ITEM 2. Amend subrule **21.4(4)**, second unnumbered paragraph, as follows:

~~This subrule shall be in effect until March 1, 2003, except as amended before then.~~ *This subrule is retroactively reinstated effective March 1, 2003.*

ITEM 3. Amend paragraphs **21.6(9)"b"** and **"c"** as follows:

b. Sheriffs, deputy sheriffs, and airport firefighters, effective ~~July 1, 2002~~ *July 1, 2003*.

(1) Member's rate—~~5.37%~~ *4.99%*.

(2) Employer's rate—~~8.05%~~ *7.48%*.

c. Members employed in a protection occupation, effective ~~July 1, 2002~~ *July 1, 2003*.

(1) Member's rate—~~6.04%~~ *5.93%*.

(2) Employer's rate—~~9.07%~~ *8.90%*.

ITEM 4. Amend paragraph **21.6(9)"e"** as follows:

e. Prior special rates are as follows:

Effective ~~July 1, 2001~~ *July 1, 2002*, through June 30, ~~2002~~ *2003*:

(1) Sheriffs, deputy sheriffs, and airport firefighters—member's rate—~~5.50%~~ *5.37%*; employer's rate—~~8.25%~~ *8.05%*.

(2) Protection occupation—member's rate—~~6.20%~~ *6.04%*; employer's rate—~~9.29%~~ *9.07%*.

ITEM 5. Amend subrule 21.8(5) by rescinding the subrule as follows:

~~**21.8(5)** Emergency refunds.~~

~~a. IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:~~

~~(1) The member files an application for refund on a form provided by IPERS;~~

~~(2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and~~

~~(3) The member provides IPERS with payment instructions either in person or in writing.~~

~~b. Financial hardship or unforeseeable emergency includes:~~

~~(1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;~~

~~(2) Loss of a member's property due to casualty; or~~

~~(3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.~~

ITEM 6. Amend subrule 21.11(1) as follows:

**21.11(1)** Form used. It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed or brought in person to IPERS. Option choice and date of retirement shall be clearly stated on the application form and all questions on the form shall be answered in full. If an optional allowance is chosen by the member in accordance with Iowa Code section 97B.48(1) or 97B.51, the election becomes binding when the first retirement allowance is paid. A retirement application is deemed to be valid and binding when the first payment is paid. Members may not cancel their applications, change their option choice, or change an ~~Option 4~~ *IPERS option containing* contingent annuitant *benefits* after that date.

ITEM 7. Amend subrule 21.11(2) as follows:

**21.11(2)** Proof required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate or an infant baptismal certificate. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

a. United States census record;

b. Military record or identification card;

c. Naturalization record;

d. A marriage license showing age of applicant in years, months and days on date of issuance;

e. A life insurance policy;

PERSONNEL DEPARTMENT[581](cont'd)

f. Records in a school's administrative office;

g. An official form from the United States Immigration Service, such as the "green card," containing such information;

h. Driver's license or Iowa nondriver identification card;

i. Adoption papers;

j. A family Bible record. A photostatic copy will be accepted with certification by a notary that the record appears to be genuine; or

k. Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

*If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.*

Under subrule 21.11(6), IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

ITEM 8. Amend subrule 21.11(6), introductory paragraph, as follows:

**21.11(6)** A member retiring on or after the early retirement or normal retirement date shall submit written notice to IPERS setting forth the retirement date, provided the date is after the member's last day of service. A member's first month of entitlement shall be no earlier than the first day of the first month after the member's last day of service or, if later, the month provided for under subrule 21.18(2). A member who does not begin benefits timely in the first month that begins after the member's last day of service may receive up to six months of retroactive payments. The period for which retroactive payments may be paid is measured from the month that a valid contact occurs. For purposes of this subrule, a "contact" means a telephone call, facsimile transmission, E-mail, visit to IPERS at its offices or off-site locations, or a letter or other writing requesting a benefits estimate or application to retire, whichever is received first. ~~A contact is only valid if a completed application to retire is received within six months following the month that a benefits estimate or application to retire form is mailed to the member in response to the contact.~~ If a completed *retirement* application ~~to retire~~ form is received more than ~~six months~~ *30 days* after such a benefits estimate or *retirement* application ~~to retire~~ is mailed, retroactive payments may only be made for up to six months preceding the month that the completed *retirement* application ~~to retire~~ is received *by IPERS*.

ITEM 9. Amend rule 581—21.24(97B) by adopting the following **new** subrule:

**21.24(18)** Service purchase cost quotes.

a. General requirements.

(1) Active and inactive members. IPERS shall provide the following information to IPERS' actuary in order to calculate service purchase cost quotes for active and inactive members: date of birth, the applicable occupation class code, total years of current unused IPERS service credit, highest calendar year of covered wages on file, member's current investment, the number of quarters available to purchase on this cost quote, and whether the service purchase cost quote is for a buy-back or buy-in.

If the service purchase cost quote is for a buy-back, IPERS shall provide the highest calendar year of covered wages on file regardless of whenever those wages occurred, including quarters covered by a refund. Effective July 1, 2003, IPERS shall provide information to the actuary whether the refund included an employer share, and the actuarial cost of the buy-back shall be adjusted accordingly.

(2) Retired members. For retired members, IPERS shall provide the following information to IPERS' actuary in order to calculate service purchase cost quotes: date of birth, the applicable occupation class code, average of the highest three calendar years of covered wages, the option the member selected at retirement, the number of quarters available to purchase on this cost quote, a calculation of the member's new benefit amount if the member actually purchases all of the quarters in this service purchase cost quote, and whether the service purchase is a buy-back or buy-in.

In addition to providing the above information to IPERS' actuary, if the member retired under Option 4 or 6, IPERS shall provide, if applicable, either the date of death (if known) or the date of birth for the contingent annuitant, and the percent selected by the member for continuation of benefits to the contingent annuitant upon the member's death. If the member retired under Option 6, IPERS shall calculate how the member's benefits will change under Option 2 upon the contingent annuitant's death and provide this information to the actuary. In preparing cost quotes for retirees who selected Option 4 or 6, IPERS' actuary shall use for beneficiary mortality assumption the reverse of the assumption used for benefit mortality.

If the member retired under Option 5, IPERS shall provide information on how many months are remaining on the guaranteed 10-year payout.

(3) Reemployment. If the member is retired and subsequently reemployed in IPERS covered employment, and then requests a service purchase cost quote, IPERS shall apply the service to be purchased to the period of employment that will provide the greatest increase in benefits to the member. IPERS shall supply to the actuary the same information as described for retirees in paragraph "b" of this subrule, and IPERS' actuary will appropriately calculate the service purchase cost quote.

(4) Wages restored. When buy-back quarters are purchased, the member's wage record shall be restored, beginning with the lowest wage quarter and restoring additional quarters in ascending order based on the covered wages reported for such quarters. Wage records shall not be created or restored for any other type of service purchase.

b. Special situations. Buy-backs of special service time. Refunded special service credit may be purchased as special service credit or as regular service credit subject to the following conditions:

(1) If the member's current unused service credit record consists of only regular service credit, buy-back cost quotes shall be prepared reflecting purchase as regular service credit and alternatively as special service credit. The member may choose whether to buy back the service credit in question as regular service credit or as special service credit, but not as a combination of both.

(2) If the member's current unused service credit record consists of a combination of regular and special service credit, then, regardless of the member's current occupation classification code, buy-back cost quotes shall be prepared reflecting purchase as regular service credit and alternatively as special service credit. The member may choose whether to buy back the service credit in question as regular service credit or as special service credit, but not as a combination of both.

(3) If the member is currently working in a special service class position, and the member's current service credit record consists of only special service credit, the buy-back cost quote shall be prepared as a special service class purchase.

c. Buy-ins.

(1) Buy-in service purchase cost quotes for members currently in special service positions shall be prepared as special service credit.

(2) Buy-in service purchase cost quotes for a member with a combination of currently unused regular and special service credit shall be prepared reflecting purchase as regular service credit and alternatively as special service credit, regardless of the member's current occupation classification code. The member may choose whether to purchase the service as regular service credit or as special service credit, but not as a combination.

(3) Members covered under another retirement plan. Members who wish to buy service credit for employment that is covered by another defined benefit retirement plan qualified under IRC Section 401(a) must waive their right to benefits based on the service credit that is being purchased under IPERS. If a waiver is not obtained, service purchases for such employment, including but not limited to employment with another public employer, shall be limited to 20 quarters.

(4) Members retired under IPERS' disability formula. A retired member receiving IPERS benefits as a result of a disability shall receive a service purchase cost quote which reflects no penalty for early age reduction.

d. Limitations.

(1) Under no circumstances shall service purchases be allowed for quarters already on file with IPERS as covered quarters.

(2) Service purchases characterized as nonqualified permissive service credit under IRC Section 415(n) shall not exceed 20 quarters.

(3) If a member has requested a service purchase cost quote and, before the six-month expiration has passed, submits another request for a service purchase cost quote for the same or different employer, the new service purchase cost quote will be based on a combination of the two service purchase cost quotes. The latest service purchase cost quote shall supersede all prior cost quotes provided to the member for the quarters that the member purchases after the issuance of the second cost quote.

(4) If before the six-month expiration has passed a member has made a partial purchase under a service purchase cost quote and requests another service purchase cost quote, the quarters covered by the original cost quote will be added to the new request. IPERS' actuary will prepare a new service purchase cost quote. The latest service purchase cost quote shall supersede all prior quotes provided to the member for quarters that the member purchases after the issuance of the second cost quote. For example, if the member receives a cost quote of $300 per quarter for 6 quarters of Illinois public employment and, three months later, after buying 3 Illinois quarters, requests a service purchase cost quote for 8 quarters of military service, the second quote would be prepared using 11 quarters as the basis for the cost quote. The per-quarter cost quote prepared using the 11 quarters would supersede the $300 per quarter cost previously quoted. This superseding cost principle will apply regardless of whether the recalculated cost is greater or less than the superseded quote. Thus, in the above example, if the second cost quote is $350, that would be the price for all 11 quarters for the next six months. However, if the new quote comes in at $250 per quarter, that will be the cost for all 11 quarters for the next six months.

(5) Purchases for service credit for employment outside the U.S. Service credit for employment with a foreign employer is limited to purchases of service with a qualified Canadian governmental entity as permitted under Iowa Code section 97B.73, or with the federal Peace Corps program under Iowa Code section 97B.80B.

(6) Self-employed member. Because of the difficulty in documenting what portion of the amounts paid are actually related to the performance of services, including amounts reported to the federal and state tax authorities, members shall not be permitted to purchase service credit for periods of self-employment.

# ARC 2370B

# PROFESSIONAL LICENSURE DIVISION[645]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend Chapter 80, "Administrative and Regulatory Authority for the Board of Dietetic Examiners"; amend Chapter 81, "Licensure of Dietitians"; and rescind Chapter 83, "Discipline for Dietitians," Iowa Administrative Code, and adopt new Chapter 83 with the same title.

The proposed amendments amend the rule regarding public meetings by adopting subrules covering the conduct of persons who attend public meetings, and reformat rule 645—81.6(152A) for clarification. The proposed amendments also adopt new Chapter 83, which contains new and updated rules covering discipline.

The Division sent a draft of the proposed amendments to selected associations and schools. The Board received one comment on the proposed amendments. The person who responded thought that requiring licensees to report name or address changes in 30 days or face possible disciplinary action seemed harsh.

Any interested person may make written comments on the proposed amendments no later than April 23, 2003, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail ebaird@idph.state.ia.us.

A public hearing will be held on April 23, 2003, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record

and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 147, 152A and 272C.

The following amendments are proposed.

ITEM 1. Adopt **new** subrules 80.6(3) and 80.6(4) as follows:

**80.6(3)** The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**80.6(4)** Cameras and recording devices may be used at open meetings, provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

ITEM 2. Amend the implementation clause for **645—Chapter 80** as follows:

These rules are intended to implement Iowa Code chapters 17A, *21,* 152A and 272C.

ITEM 3. Rescind rule 645—81.6(152A) and adopt **new** rule 645—81.6(152A) in lieu thereof:

**645—81.6(152A) Supervised experience.** The applicant shall:

**81.6(1)** Complete a documented supervised practice experience component in a dietetic practice of not less than 900 hours under the supervision of:

a. A registered dietitian;

b. A licensed dietitian; or

c. An individual with a doctoral degree conferred by a U.S. regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management; and

**81.6(2)** Have a supervised practice experience that was completed:

a. In the United States or its territories; or

b. Under the supervision of a person who obtained a doctoral degree outside the United States or its territories, which has been validated as equivalent to the doctoral degree conferred by a U.S. regionally accredited college or university.

ITEM 4. Rescind 645—Chapter 83 and adopt the following **new** chapter in lieu thereof:

CHAPTER 83
DISCIPLINE FOR DIETITIANS

**645—83.1(152A) Definitions.**

"Board" means the board of dietetic examiners.

"Licensee" means a person licensed to practice as a dietitian in Iowa.

"Licensee discipline" means any sanction the board may impose upon licensees for conduct which threatens or denies persons of this state a high standard of professional care.

**645—83.2(152A,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—83.2(152A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**83.2(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**83.2(2)** Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other dietitians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average dietitian acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed dietitian in this state.

**83.2(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of dietetics or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**83.2(4)** Practice outside the scope of the profession.

**83.2(5)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

**83.2(6)** Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

**83.2(7)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**83.2(8)** Falsification of client or patient records.

**83.2(9)** Acceptance of any fee by fraud or misrepresentation.

**83.2(10)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**83.2(11)** Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice dietetics. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**83.2(12)** Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of dietetics.

**83.2(13)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country, or failure by the licensee to report such action within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**83.2(14)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the

individual's practice of dietetics in another state, district, territory or country.

**83.2(15)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**83.2(16)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**83.2(17)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**83.2(18)** Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

**83.2(19)** Failure to comply with a subpoena issued by the board or to cooperate with an investigation of the board.

**83.2(20)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**83.2(21)** Failure to pay costs assessed in any disciplinary action.

**83.2(22)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**83.2(23)** Failure to report another licensee to the board for any violations listed in these rules.

**83.2(24)** Knowingly aiding, assisting, or advising a person to unlawfully practice dietetics.

**83.2(25)** Failure to report a change of name or address within 30 days after it occurs.

**83.2(26)** Representing oneself as a licensed dietitian when the person's license has been suspended or revoked, or when the person's license is lapsed or has been placed on inactive status.

**83.2(27)** Permitting another person to use the licensee's license for any purpose.

**83.2(28)** Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

**83.2(29)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

**83.2(30)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

**645—83.3(152A,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—83.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring the citizens of this state a high standard of professional care;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code chapters 147, 152A and 272C.

# ARC 2381B

# PUBLIC HEALTH DEPARTMENT[641]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code.

The rules in Chapter 88 describe the eligibility of health care providers providing free health services through qualified programs to be defended and indemnified by the state of Iowa. These amendments add chiropractors, dental hygienists, and dental assistants to the health care provider professions eligible for the program. These amendments further clarify the existing rules.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 22, 2003. Such written materials should be directed to Julie McMahon, Director, Division of Community Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; fax (515)242-6384; E-mail jmcmahon@idph.state.ia.us. Persons who wish to convey their views orally should contact the Community Health Division at (515)281-7016 or at the Community Health Division offices on the fifth floor of the Lucas State Office Building.

Also, there will be a public hearing on April 22, 2003, from 10 to 11 a.m. in Room 517, Fifth Floor, Lucas State Office Building, at which time persons may present their views

either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

These amendments are intended to implement Iowa Code section 135.24.

The following amendments are proposed.

ITEM 1. Amend rule 641—88.1(135) as follows:

**641—88.1(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

"Charitable organizations" means a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of medical, *chiropractic,* and dental services to children and to serve as a funding mechanism for provision of medical services, including but not limited to immunizations, to children.

"Health care provider" means a physician licensed under Iowa Code chapter 148, 150, or 150A, a physician assistant licensed and practicing under a supervising physician pursuant to Iowa Code chapter 148C, *a chiropractor licensed under Iowa Code chapter 151,* a licensed practical nurse, ~~or~~ a registered nurse, *or a nurse practitioner* pursuant to Iowa Code chapter 152, or a dentist *or dental hygienist or dental assistant* pursuant to Iowa Code chapter 153.

ITEM 2. Amend rule 641—88.2(135) as follows:

**641—88.2(135) Purpose.** The volunteer health care provider program is established to defend and indemnify eligible health care providers providing free medical, *chiropractic,* and dental services through qualified programs as provided in Iowa Code section 135.24 and these rules.

ITEM 3. Amend rule 641—88.3(135), introductory paragraph, as follows:

**641—88.3(135) Health care provider eligibility.** To be eligible for protection as an employee of the state under Iowa Code chapter 669 for a claim arising from covered medical, *chiropractic,* or dental services, a health care provider must meet all of the following conditions at the time of the act or omission allegedly resulting in injury:

ITEM 4. Amend subrule 88.3(1) as follows:

**88.3(1)** Be licensed to practice under Iowa Code chapter 148, 148C, 150, 150A, *151,* 152, or 153.

ITEM 5. Amend subrule **88.3(2)**, paragraph **"d,"** as follows:

d. Comply with the agreement with the department concerning approved medical, *chiropractic,* or dental services and programs.

ITEM 6. Amend subrule 88.3(3) as follows:

**88.3(3)** ~~Have a current certificate of qualification from the applicable state licensing board based on review of the following records submitted by the health care provider:~~

~~a. Verification that the health care provider holds~~ *Hold* an active unrestricted license, *in good standing,* to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, *151,* 152 or 153.

~~b. Verification that the health care provider has continuously held an active license in good standing since first licensed to practice the profession.~~

~~c. Verification of good standing of any hospital and clinic affiliation or staff privileges held by the health care provider in the last ten years.~~

~~d.~~ *a.* ~~Certified~~ *Physicians and dentists shall authorize release of information allowing certified* statements *to be sent to the board of medical examiners or board of dental examiners* from the National Practitioner Data Bank, *the Health Care Integrity and Protection Data Bank* and the Federation of State Medical Boards Disciplinary Data Bank, or State Dental Boards Disciplinary Data Bank, as appropriate, setting forth any malpractice judgments or awards, or disciplinary action involving the physician or dentist. ~~The physician, or dentist~~ *Chiropractors* shall request that the statements *from the National Practitioner Data Bank and the State Chiropractic Boards Disciplinary Data Bank* be sent directly to the board by the data banks and shall pay the cost.

~~e.~~ *b.* ~~A~~ *The health care provider shall provide a* sworn statement ~~from the health care provider~~ attesting that the license to practice is free of restrictions. The statement shall describe any disciplinary action which has ever been initiated against the health care provider by a professional licensing authority or health care facility, including any voluntary surrender of license or other agreement involving the health care provider's license to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits which have been filed against the health care provider and state whether any complaints involving professional competence have been filed against the health care provider with any licensing authority or health care facility.

~~f.~~ *c.* Any additional materials requested by the *state licensing* board *must verify the status of the active unrestricted license*.

ITEM 7. Amend subrule **88.3(4)**, paragraph **"e,"** as follows:

e. Provide that the health care provider shall maintain proper medical, *chiropractic,* or dental records; and

ITEM 8. Amend rule 641—88.11(135) as follows:

**641—88.11(135) Covered medical, *chiropractic,* or dental services.** An eligible health care provider shall be afforded the protection of an employee of the state under Iowa Code chapter 669 only for claims for medical, *chiropractic, or dental* injury proximately caused by the health care provider's provision of covered health services.

***88.11(1)*** *Covered medical or dental services.* Covered health services are only those which are:

1. Identified in the agreement with the department;
2. In compliance with these rules;
3. Provided by or under the direct supervision of the health care provider;
4. Health services of ~~health~~ *disease* prevention, health maintenance, health education, diagnosis, or treatment other than the administration of anesthesia~~,~~ and surgical procedures, except minor surgical procedures and administration of local anesthesia for the stitching of wounds or the removal of lesions or foreign particles ~~may be provided~~; and
5. Primary dental services which are preventive, diagnostic, restorative or emergency treatment including extraction.

***88.11(2)*** *Covered chiropractic services. Chiropractors shall practice only as authorized under Iowa Code chapter 151.*

Experimental procedures or procedures and treatments which lack sufficient evidence of clinical effectiveness are excluded from the program.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 9. Amend subrule 88.12(1) as follows:

**88.12(1)** The claim involves medical*, chiropractic, or dental* injury proximately caused by covered health services which were identified and approved in the agreement with the department and then only to the extent the services were provided by or under the direct supervision of the health care provider, including claims based on negligent delegation of medical*, chiropractic, or dental* care.

ITEM 10. Amend subrule **88.13(3)**, paragraph **"d,"** as follows:

d. The program maintains medical*, chiropractic, or dental* records in accordance with accepted standards for a period of ten years.

# ARC 2363B

# RACING AND GAMING COMMISSION[491]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 4, "Contested Cases and Other Proceedings," Chapter 6, "Occupational and Vendor Licensing," and Chapter 10, "Thoroughbred and Quarter Horse Racing," Iowa Administrative Code.

Items 1 through 4 allow the Commission to consider a deferred judgment as a conviction.

Item 5 establishes rules for quarter horse time trial races.

Any person may make written suggestions or comments on the proposed amendments on or before April 22, 2003. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on April 22, 2003, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **4.4(3)**, paragraph **"d."**

ITEM 2. Amend rule **491—6.1(99D,99F)** by adding the following **new** definition in alphabetical order:

"Conviction" means the act or process of judicially finding someone guilty of a crime; the state of a person's having been proved guilty; the judgment that a person is guilty of a crime or criminal offense, which includes a guilty plea entered in conjunction with a deferred judgment.

ITEM 3. Amend subrule **6.2(1),** paragraph **"c,"** subparagraph **(1)**, and paragraph **"j,"** as follows:

(1) A record of conviction of a felony or misdemeanor*, including a record involving the entry of a deferred judgment*;

j. All licenses are conditional until completion of a necessary background investigation including, but not limited to, fingerprint processing through the DCI and the FBI and review of records on file with ~~the Association of Racing Commissioners International~~ *national organizations*, courts, law enforcement agencies, and the commission.

ITEM 4. Amend subrule **6.5(1)**, paragraph **"d,"** introductory paragraph, and paragraphs **"e," "f,"** and **"h,"** as follows:

d. A license shall be denied if, within the last five years, an applicant has had a conviction*, including a conviction involving the entry of a deferred judgment,* of:

e. A license shall be denied if an applicant has a conviction of a serious or aggravated misdemeanor*, including a conviction involving the entry of a deferred judgment,* or the equivalent unless the commission representative determines that sufficient evidence of rehabilitation exists.

f. A license shall be denied if an applicant has multiple convictions of simple misdemeanors*, including those involving the entry of a deferred judgment,* or alcohol-related offenses unless the commission representative determines that sufficient evidence of rehabilitation exists. In making that determination, the number of violations shall be considered.

h. A license shall be temporarily denied or suspended until the outcome of any pending charges is known if conviction ~~of those charges~~*, including a conviction involving the entry of a deferred judgment,* would disqualify the applicant.

ITEM 5. Amend rule **491—10.6(99D)** by adding the following **new** subrule:

**10.6(19)** Quarter horse time trial races.

a. Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten horses.

b. The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten fastest times shall qualify to participate in the finals. If the time trials are conducted on two days, the horses with the five fastest times on the first day and the horses with the five fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two days, the racing office should make every attempt to split owners with more than one entry into separate days so that the owner's horses have a chance at all ten qualifying positions.

c. If the facility's starting gate has less than ten stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.

d. If only 11 or 12 horses are entered to run in time trials from a gate with 12 or more stalls, the facility may choose to run finals only. If 11 or 12 horses participate in the finals, only the first 10 finishers will receive purse money.

e. In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in the horses' qualifying for the finals. Should two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Under no circumstances should stewards or placing judges attempt to determine horses' qualifying times in separate trials beyond the limit of the timer by comparing or enlarging a photo finish picture.

RACING AND GAMING COMMISSION[491](cont'd)

f. Except in the case of disqualification, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.

g. Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one hundredth of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for headwind, tailwind, and off track. In the case where a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse may be given no time plus one hundredth of a second, or the maximum accuracy of the electronic timing device.

h. Should a malfunction occur with an electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three official and disinterested persons. The average of the three hand times will be utilized for the winning time, unless one of the hand times is clearly incorrect. In such cases, the average of the two accurate hand times will be utilized for the winning time. The other horses in that race will be given times according to the order and margins of finish with the aid of the photo finish strip, if available.

i. When there is a malfunction of the timer during the time trials, but the timer operates correctly in other time trials, under no circumstances should the accurate electronic times be discarded and the average of the hand times used for all time trials. (The only exemption may be if the conditions of the stakes race so state, or state that, in the case of a malfunction of the timer in trials, finalists will be selected by order of finish in the trials.)

j. In the case where the accuracy of the electronic timer or the average of the hand times is questioned, the video of a time trial may be used to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. This method is accurate to approximately .03 seconds. Should the case arise where the timer malfunctions and there are no hand times, the stewards have the option to select qualifiers based on the video time.

k. Should there be a malfunction of the starting gate and one or more stall doors not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses in stalls with malfunctioning doors nonstarters. The stewards should have the option, however, to allow any horse whose stall door opened late but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. In the case where a horse breaks through the stall door or the stall door opens prior to the exact moment the starter dispatches the field, the horse must be declared a nonstarter and all entry fees refunded. In the case where one or more, but not all, stall doors open at the exact moment the starter dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic time. If the electronic timer malfunctions in this instance, the average of the hand times, or, if not available, the video time, should be utilized for the horses that were declared starters.

l. There will be an also eligible list only in the case of a disqualification for a positive drug test report, ineligibility of the horse according to the conditions of the race, or a disqualification by the stewards for a rule violation. Should a horse be disqualified for a positive drug test report, ineligibility of the horse according to the conditions of the race, or a disqualification by the stewards for a rule violation, the next fastest qualifier shall assume the disqualified horse's position in the finals.

m. If a horse should be scratched from the time trials, the horse's owner will not be eligible for a refund of the fees paid and that horse will not be allowed to enter the finals under any circumstances. If a horse that qualified for the finals is unable to enter due to racing soundness or is scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned, and the owner will receive, last place purse money. If more than one horse is scratched from the finals for any reason other than a positive drug test report or a rule violation, then the purse moneys shall be added together and divided equally among the owners.

# NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

| | |
|---|---|
| March 1, 2002 — March 31, 2002 | 7.00% |
| April 1, 2002 — April 30, 2002 | 7.00% |
| May 1, 2002 — May 31, 2002 | 7.25% |
| June 1, 2002 — June 30, 2002 | 7.25% |
| July 1, 2002 — July 31, 2002 | 7.25% |
| August 1, 2002 — August 31, 2002 | 7.00% |
| September 1, 2002 — September 30, 2002 | 6.75% |
| October 1, 2002 — October 31, 2002 | 6.25% |
| November 1, 2002 — November 30, 2002 | 5.75% |
| December 1, 2002 — December 31, 2002 | 6.00% |
| January 1, 2003 — January 31, 2003 | 6.00% |
| February 1, 2003 — February 28, 2003 | 6.00% |
| March 1, 2003 — March 31, 2003 | 6.00% |
| April 1, 2003 — April 30, 2003 | 6.00% |

# ARC 2378B

# UTILITIES DIVISION[199]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, 476.1B, 476.2, 476.3, and 476.20, the Utilities Board (Board) gives notice that on March 13, 2003, the Board issued an order in Docket No. RMU-03-3, In re: Customer Service Rules Revisions; Executive Orders 8 and 9, 199 IAC 6, 19.4(476), 20.4(476), and 21.4(476), "Order Commencing Rule Making." On September 14, 1999, Governor Vilsack issued Executive Orders Number 8 and 9 to begin a comprehensive review process of all agency rules using the criteria of need, clarity, intent, statutory authority, cost, fairness, and whether the rules are consistent with the principles contained in Executive Order Number 9. The Board was also required to review any rules routinely waived by the Board to determine if the rule can be redrafted so routine waivers are not necessary.

In response to the executive orders, the Board, on February 23, 2000, issued an "Order Regarding Plan for Regulato-

ry Review" in which the Board assigned various chapters of its rules to Board staff teams. One of the teams reviewed Chapter 6 and rules 19.4(476), 20.4(476), and 21.4(476). The Board is proposing to amend Chapter 6 and rules 19.4(476) and 20.4(476) to comply with the executive orders, and the Board is also proposing revisions based upon subsequent reviews of rules 19.4(476) and 20.4(476). No revisions are proposed for rule 21.4(476). The background and support for the proposed amendments can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before May 1, 2003, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive oral comments on the proposed amendments will be held at 10 a.m. on May 28, 2003, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.1A, 476.1B, 476.1C, 476.2, 476.3, and 476.20.

The following amendments are proposed.

ITEM 1. Amend subrule 6.2(1) as follows:

**6.2(1)** Information to be filed~~.~~. Any person may, by ~~mailing~~ *filing* a *written* complaint ~~letter~~, request the board to determine whether the utility's charges, practices, facilities or service ~~are~~ *is* in compliance with applicable statutes and rules established by the board, or by the utility in its tariff, and lawfully issued board orders. *The written complaint must be filed with the board. If there is any question about the authenticity of a fax or electronic mail complaint, the complainant may be required to file a verification of the written complaint.* The board may initiate a complaint on its own motion. The complaint ~~letter must be signed and dated by the complainant or by the complainant's representative and addressed to Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The letter~~ should include:

a. to e. No change.

ITEM 2. Amend subrule 6.2(2) as follows:

**6.2(2)** Request for additional information. If the staff determines that additional information is needed in order to resolve the complaint, the complainant will be notified that specified additional information should be filed. ~~Action on the complaint will be held in abeyance until receipt of the requested information.~~ *If the requested additional information is not provided within 20 days, the complaint may be dismissed. Dismissal of the complaint on this basis does not prevent the complainant from filing in the future a complaint that includes the requested information.*

ITEM 3. Amend subrule 6.3(3) as follows:

**6.3(3)** The utility shall, within 20 days of the date on which the complaint is ~~mailed~~ *forwarded* to the utility by the board, file a response to the complaint with the board and shall ~~mail~~ *at the same time send* a copy of its response to the complainant and the consumer advocate. The utility shall specifically address each allegation made by the complainant and recite any supporting facts, statutes, rules, or tariff provisions supporting its response. The utility shall enclose copies of all related letters, records, or other documents not supplied by the complainant, and all records concerning the complainant that are not confidential or privileged. In ~~those~~ cases *of confidential or privileged records,* the response shall advise of the records' existence.

ITEM 4. Amend subrule 6.5(2) as follows:

**6.5(2)** The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark*, other delivery service,* or the date personal service is made. The request shall be in writing and must be delivered by United States Postal Service*, other delivery service,* or personal service. The request shall include the file number (C-XX-XXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.

ITEM 5. Amend paragraph **19.4(1)"d"** as follows:

d. ~~Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing~~ *Inform* the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection *at the utility's offices or by mail upon request. If the utility has a Web site, the utility shall make the applicable rate schedules and rules available on the utility's Web site.*

ITEM 6. Amend subrule 19.4(10) as follows:

**19.4(10)** Payment agreements.

a. Availability~~—customer~~ *of agreement*.

~~(1)~~ When a residential customer cannot pay in full a delinquent bill for utility service ~~and will be disconnected~~ *or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility*, a utility shall offer the customer an opportunity to enter into a reasonable *payment* agreement ~~to pay that bill unless the customer is in default on a payment agreement~~.

~~(2) When a disconnected or potential customer for residential service has an outstanding debt to the utility for utility service, cannot pay the debt in full, and is not in default on a payment agreement, the utility must consider a request for a payment agreement.~~

b. No change.

c. Terms *of payment agreements*.

*(1)* ~~The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times.~~ The utility shall offer customers ~~or disconnected customers~~ the option of spreading payments evenly over at least 12 months *by paying specific amounts at scheduled times*. ~~Payments for potential customer agreements may be spread evenly over at least 6 months.~~

*(2)* The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

*(3)* When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer~~, disconnected customer or potential customer~~.

*(4)* The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over

the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral *agreement or electronic* agreement. The document will be considered rendered to the customer when *addressed to the customer's last-known address and* deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free *or collect telephone* number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement *or electronic agreement*.

*(5)* ~~Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the~~ *The* utility may offer the customer a second payment agreement*, but is not required to do so* ~~that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October~~. The utility may ~~also~~ require the customer to enter into a level payment plan to pay the current bill.

~~The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather-normalized, during the prior 12-month period or based on projected usage if historical use data is not available.~~

d. Refusal by utility. ~~If the utility intends to refuse a payment agreement offered by a customer, it must provide a written refusal to the customer. That refusal, with explanation, must be made within 30 days of mailing of the initial disconnection notice. A customer may protest the utility's refusal by filing a written complaint, including a copy of the utility's refusal, with the board within 10 days after receipt of the written refusal. If the utility intends to refuse a payment agreement to a disconnected or potential customer, it must provide a written refusal within 10 days of the application for payment agreement.~~ *A customer may offer the utility a proposed payment agreement. If the utility refuses a payment agreement offered by a customer, it may do so orally, but the utility must render a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.*

*A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.*

ITEM 7. Amend subrule 19.4(11) as follows:

**19.4(11)** Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(7) may not be considered delinquent less than 5 days from the date of rendering. However, late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

*a.* The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

*b.* In any case where net and gross amounts are billed *to* customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

*c.* If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

*d.* Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified *that* the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

*e. Level payment plan.* All residential customers or other customers whose consumption is less than 250 ccf per month may select a plan of level payments. ~~These~~ *The* rules for such plan shall include at least the following:

~~a.~~ *(1)* Be offered when the customer initially requests service.

~~b.~~ *(2)* Have a date of delinquency changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. The *utility's* rules may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

~~c.~~ *(3)* Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer's anniversary month.

~~d.~~ *(4)* The billing period level payment to be the sum of estimated charges divided by the number of standard billing intervals, all for the next 12 consecutive months.

~~e.~~ *(5)* A customer may request termination of the plan (or withdrawal from the plan) at any time. If the customer's account is in arrears, the customer may be required to bring the account to a current balance before termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to charges for subsequent months' service.

~~f.~~ *(6)* The level payment plan account balance on the anniversary date shall be carried forward and added to the estimated charges for service during the next year, and this total will be the basis for computing the next year's periodic billing interval level payment amount. The customer shall be

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given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of ~~$10~~ *$25*. ~~For purposes of this paragraph the~~ *The* anniversary date account balance shall not carry forward on *an* unpaid level payment bill. For delinquency on a level payment plan amount see ~~19.4(11)"i"~~ *subparagraph 19.4(11)"e"(9)*.

~~g.~~ *(7)* The amount to be paid in each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan. It may be recomputed on each anniversary date, when requested by the customer, or whenever price, consumption, alone or in combination result in a new estimate differing by 10 percent or more from that in use.

When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall be served not less than 30 days prior to the date of delinquency for the first revised payment. The notice may accompany the bill prior to the bill *that is* affected by the revised payment amount.

~~h.~~ *(8)* The account shall be balanced upon termination of service or withdrawal in ~~accord~~ *accordance* with the *utility's* tariff.

~~i.~~ *(9)* Irrespective of the account balance, a delinquency in payment shall be subject to the same procedures as other accounts on late payment charge on the level payment amount. If the account balance is a debit, a delinquency in payment shall be subject to the same procedures as other accounts for collection or ~~cut-off~~ *disconnection*. If the account balance is a credit, the level payment plan shall terminate after ~~not less than~~ 30 days ~~nor more than 60 days~~ of delinquency.

ITEM 8. Amend subrule 19.4(15) as follows:

**19.4(15)** Refusal or disconnection of service. *A utility shall refuse service or disconnect service in accordance with tariffs that are consistent with these rules.* ~~Notice of pending disconnection shall be rendered and gas service refused or disconnected as set forth in the tariff.~~

*a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15)"b."* The notice ~~of pending disconnection required by these rules~~ shall ~~be a written notice setting~~ *set* forth the reason for the notice~~,~~ and final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when *addressed to the customer's last-known address and* deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for ~~refusal or~~ disconnection of service shall be not less than 12 days after the notice is rendered. The date for ~~refusal or~~ disconnection of service for customers on shorter billing intervals under subrule 19.3(7) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for ~~refusal or~~ disconnection of service. ~~The notice shall also state the final date by which the account is to be settled or other specific action taken.~~ In determining the final date *by which the account is to be settled or other specific action taken*, the days of notice for the causes shall be concurrent.

~~Service may be refused or disconnected for any of the reasons listed below. Unless otherwise stated, the customer shall be provided notice of the pending disconnection and the rule violation which necessitates disconnection. Furthermore, unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is disconnected. Except as provided in paragraphs 19.4(15)"a," "b," "c," and "d," no service shall be disconnected on the day preceding or day on which the utility's local business office or local authorized agent is closed.~~

*b.* Service may be ~~refused or~~ disconnected *without notice*:

~~a.~~ *(1)* ~~Without notice in~~ *In* the event of a condition determined by the utility to be hazardous.

~~b.~~ *(2)* ~~Without notice in~~ *In* the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

~~c.~~ *(3)* ~~Without notice in~~ *In* the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

~~d.~~ *(4)* ~~Without notice in~~ *In* the event of unauthorized use.

*c. Service may be disconnected or refused after proper notice:*

~~e.~~ *(1)* For violation of or noncompliance with the utility's rules on file with the ~~utilities division~~ *board*.

~~f.~~ *(2)* For failure of the customer ~~or prospective customer~~ to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the ~~utilities division~~ *board*, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer ~~or prospective customer~~ to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the ~~utilities~~ board.

~~g.~~ *(3)* For failure of the customer to permit the utility reasonable access to ~~its~~ *the utility's* equipment.

~~h~~ *d.* ~~For~~ *Service may be refused or disconnected after proper notice for* nonpayment of bill or deposit, except as restricted by *subrules* 19.4(16) and 19.4(17), provided that the utility has *complied with the following provisions when applicable*:

(1) ~~Made a reasonable attempt to effect collection~~ *Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal*;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account~~, together with~~ *to avoid disconnection and* a written summary of the rights and remedies available ~~to avoid disconnection~~. Customers billed more frequently than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account~~, together with~~ *to avoid disconnection and* a written summary of the rights and remedies ~~available to avoid disconnection~~. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide ~~their~~ *the representative's* name ~~to the caller,~~ and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) and (4) No change.

(5) ~~Given the customer a reasonable opportunity to dispute the reason for the disconnection and, if to the extent applicable, complied with each of the following:~~

Disputed bill. ~~In the event there is a~~ *If the customer has received notice of disconnection and has a* dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby

avoid discontinuance of service. *A utility shall delay disconnection* for nonpayment of the disputed bill for up to 45 days after the rendering of the bill *if the customer pays the undisputed amount*. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board *in compliance with 199—Chapter 6*.

*(6)* Special circumstances. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

*(7) Severe cold weather.* A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence~~, or~~ on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with *subparagraph* 19.4(15)"~~h~~ *d"*(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees *Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours*, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of ~~this rule.~~ *paragraph 19.4(15)"d."*

*(8)* Health of a resident. Disconnection of a residential customer shall be postponed if the ~~discontinuance~~ *disconnection* of service would present ~~an especial~~ *a serious* danger to the health of any permanent resident of the premises. ~~An especial~~ *A serious* danger to health is indicated if ~~one~~ *a person* appears to be seriously impaired and may, because of mental or physical problems, be unable to manage ~~their~~ *the person's* own resources, *to* carry out activities of daily living or ~~protect oneself~~ *to be protected* from neglect or hazardous situations without assistance from others. Indicators of ~~an especial~~ *a serious* danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the ~~especial~~ *serious* danger to health by a physician or public health official, including the name of the person endangered~~,~~*;* a statement that the person is a resident of the premises in question~~,~~*;* the name, business address, and telephone number of the certifying party~~,~~*;* the nature of the health danger*;* and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

~~Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. The~~ *If the* customer ~~must~~ *does not* enter into a reasonable *payment* agreement for the retirement of the unpaid balance of the account within the first 30 days and *does not* keep the current account paid during the period that the unpaid balance is to be retired~~.~~*, the customer is subject to disconnection pursuant to paragraph 19.4(15)"f."*

~~Reasonable payment agreement. If financial difficulty of a residential customer is confirmed, disconnection may not take place until after the utility has offered the customer an opportunity to enter into a reasonable payment agreement as required by 19.4(10). Disconnection shall be delayed 30 days for the making of a reasonable payment agreement and the 30 days shall be extended to 60 days if requested of the utility by the board upon receipt of a complaint that the utility has arbitrarily refused a payment agreement offered by the customer and upon a finding the customer has made payment as provided for in the offered agreement.~~

*(9)* Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date ~~of application~~ *the utility is notified* to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a *residence in which a* resident ~~who is a head of household and who~~ has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. ~~In addition to the notification procedure required herein, the utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 6,000 customers may publish notice in an advertisement in a local newspaper of general circulation or shopper's guide. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing.~~

*e.* Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

~~i~~ *f.* ~~Without~~ *A utility may disconnect gas service without* the written 12-day notice~~,~~ for failure of the customer to comply with the terms of a payment agreement, provided that:

(1) In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and ~~their~~ *the customer's* rights and remedies~~; if~~. *If* an attempt at personal or telephone contact of a customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, ~~their~~ *the customer's* present location. The landlord shall also be informed of the date when service may be disconnected.

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*(2)* During the period November 1 through April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights or remedies available to avoid disconnection at least one day prior to disconnection~~; if~~. *If* the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons therefor. *Disconnection is subject to the provisions of paragraph 19.4(15)"d."*

~~(2) The disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes a payment or other arrangements after normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 19.4(15)"h"(3) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of this rule.~~

~~(3) Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage their own resources, carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation. The utility may require written verification of the especial danger to health by a physician or public health official, including the name of the person endangered, a statement that the person is a resident of the premises in question, the name, business address, and telephone number of the certifying party, the nature of the health danger and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.~~

~~Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. The customer must pay the unpaid balance under the payment agreement within the first 30 days and keep the current account paid during the period that disconnection is postponed.~~

~~j. For failure of the customer to furnish such service equipment, permits, certificates, or rights of way necessary to serve said customer as shall have been specified by the utility as a condition to obtaining service, or in the event such equipment or permissions are withdrawn or terminated.~~

*g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.*

ITEM 9. Amend subrule 19.4(16) as follows:

**19.4(16)** Insufficient reasons for denying service. The following shall not constitute sufficient cause for refusal of service to a ~~present or prospective~~ customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay *the* back bill rendered in accordance with *paragraph* 19.4(13)"b" (~~Slow~~ *slow* meters).

f. Failure to pay adjusted bills based on the undercharges set forth in *paragraph* 19.4(13)"e."

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which ~~he or she~~ *the customer* has been receiving service.

h. No change.

ITEM 10. Amend subrule 19.4(17) as follows:

**19.4(17)** When disconnection prohibited. No disconnection may take place from November 1 through April 1 for a *residence in which a* resident ~~who is a head of household and who~~ has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program. ~~No disconnection shall take place from April 1, 2001, through May 1, 2001, for eligible residents.~~

ITEM 11. Amend paragraph **19.4(19)"a"** as follows:

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of ~~all~~ customer complaints.

ITEM 12. Amend paragraph **20.4(1)"d"** as follows:

d. ~~Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing~~ *Inform* the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection *at the utility's offices or by mail upon request. If the utility has a Web site, the utility shall make the applicable rate schedules and rules available on the utility's Web site.*

ITEM 13. Amend subrule 20.4(11) as follows:

**20.4(11)** Payment agreements.

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a. Availability~~— customer~~ *of agreement*.

~~(1)~~ When a residential customer cannot pay in full a delinquent bill for utility service ~~and will be disconnected~~ *or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility*, a utility shall offer the customer an opportunity to enter into a reasonable *payment* agreement ~~to pay that bill unless the customer is in default on a payment agreement~~.

~~(2) When a disconnected or potential customer for residential service has an outstanding debt to the utility for utility service, cannot pay the debt in full, and is not in default on a payment agreement, the utility must consider a request for a payment agreement.~~

b. No change.

c. Terms *of payment agreements*.

*(1)* ~~The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times.~~ The utility shall offer customers ~~or disconnected customers~~ the option of spreading payments evenly over at least 12 months *by paying specific amounts at scheduled times*. ~~Payments for potential customer agreements may be spread evenly over at least 6 months.~~

*(2)* The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

*(3)* When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer~~, disconnected customer or potential customer~~.

*(4)* The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral *agreement or electronic* agreement. The document will be considered rendered to the customer when *addressed to the customer's last-known address and* deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free *or collect telephone* number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement *or electronic agreement*.

*(5)* ~~Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the~~ *The* utility may offer the customer a second payment agreement*, but is not required to do so* ~~that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October~~. The utility may ~~also~~ require the customer to enter into a level payment plan to pay the current bill.

~~The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather-normalized, during the prior 12-month period or based on projected usage if historical use data is not available.~~

d. Refusal by utility. ~~If the utility intends to refuse a payment agreement offered by a customer, it must provide a written refusal to the customer. That refusal, with explanation, must be made within 30 days of mailing of the initial disconnection notice. A customer may protest the utility's refusal by filing a written complaint, including a copy of the utility's refusal, with the board within 10 days after receipt of the written refusal. If the utility intends to refuse a payment agreement to a disconnected or potential customer, it must provide a written refusal within 10 days of the application for payment agreement.~~ *A customer may offer the utility a proposed payment agreement. If the utility refuses a payment agreement offered by a customer, it may do so orally, but the utility must render a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.*

*A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.*

ITEM 14. Amend subrule 20.4(12) as follows:

**20.4(12)** Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

*a.* The date of delinquency for all residential customers or other customers whose consumption is less than 3000 kWh per month~~,~~ shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. *In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.*

*b.* In any case where net and gross amounts are billed *to* customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

*c.* If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

*d.* Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state

how the customer is notified *that* the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

*e. Level payment plan.* All residential customers or other customers whose consumption is less than 3000 kWh per month may select a plan of level payments. The rules for such plan shall include at least the following:

~~a.~~ *(1)* Be offered when the customer initially requests service.

~~b.~~ *(2)* Have a date of delinquency changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. *The utility's rules may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.*

~~c.~~ *(3)* Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer's anniversary month.

~~d.~~ *(4)* The billing period level payment to be the sum of estimated charges divided by the number of standard billing intervals, all for the next 12 consecutive months.

~~e.~~ *(5)* ~~Except for termination of service, a~~ *A* customer ~~on a level payment plan~~ may ~~not~~ request termination of the plan (or withdrawal from the plan) ~~until the first anniversary date following entry~~ *at any time. If the customer's account is in arrears, the customer may be required to bring the account to a current balance before termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to charges for subsequent months' service.*

~~f.~~ *(6)* The level payment plan account balance on the anniversary date shall be carried forward and added to the estimated charges for service during the next year. This total will be the basis for computing the next year's periodic billing interval level payment amount. *The customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of $25.* ~~For purposes of this paragraph the~~ *The* anniversary date account balance shall not carry forward on an unpaid level payment bill. For delinquency on a level payment plan amount see ~~20.4(12)"i"~~ *subparagraph 20.4(12)"e"(9)*.

~~g.~~ *(7)* The amount to be paid in each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan. It may be recomputed on each anniversary date, when requested by the customer, or whenever price~~,~~ *or* consumption, alone or in combination ~~result~~, *results* in a new estimate differing by 10 percent or more from that in use.

When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall be served not less than 30 days prior to the date of delinquency for the first revised payment. The notice may accompany the bill prior to the bill *that is* affected by the revised payment amount.

~~h.~~ *(8)* The account shall be balanced upon termination of service or withdrawal in ~~accord~~ *accordance* with the *utility's* tariff.

~~i.~~ *(9)* Irrespective of the account balance, a delinquency in payment shall be subject to the same procedures as other accounts on late payment charge on the level payment amount~~, collection, or cut-off~~. *If the account balance is a debit, a delinquency in payment shall be subject to the same procedures as other accounts for collection or disconnection. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.*

ITEM 15. Adopt **new** paragraph **20.4(14)"g"** as follows:

g. Credits and explanations. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

ITEM 16. Amend subrule 20.4(15) as follows:

**20.4(15)** Refusal or disconnection of service. *A utility shall refuse service or disconnect service in accordance with tariffs that are consistent with these rules.* ~~Notice of a pending disconnection shall be rendered, and electric service refused or disconnected as set forth in the tariff.~~

*a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15)"b."* The notice ~~of pending disconnection required by these rules~~ shall ~~be a written notice setting~~ *set* forth the reason for the notice~~,~~ and final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when *addressed to the customer's last-known address and* deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for ~~refusal or~~ disconnection of service shall be not less than 12 days after the notice is rendered. The date for ~~refusal or~~ disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for ~~refusal or~~ disconnection of service. ~~The notice shall also state the final date by which the account is to be settled or other specific action taken.~~ In determining the final date *by which the account is to be settled or other specific action taken*, the days of notice for the causes shall be concurrent.

~~Service may be refused or disconnected for any of the reasons listed below. Unless otherwise stated, the customer shall be provided notice of the pending disconnection and the rule violation which necessitates disconnection. Furthermore, unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is disconnected. Except as provided in 20.4(15)"a," "b," "c," and "d," no service shall be disconnected on the day preceding or day on which the utility's local business office or local authorized agent is closed.~~

*b.* Service may be ~~refused or~~ disconnected *without notice*:

~~a.~~ *(1)* ~~Without notice in~~ *In* the event of a condition determined by the utility to be hazardous.

~~b.~~ *(2)* ~~Without notice in~~ *In* the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

~~c.~~ *(3)* ~~Without notice in~~ *In* the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

~~d.~~ *(4)* ~~Without notice in~~ *In* the event of unauthorized use.

*c. Service may be disconnected or refused after proper notice:*

~~e.~~ *(1)* For violation of or noncompliance with the utility's rules on file with the ~~utilities division~~ *board*.

~~f.~~ *(2)* For failure of the customer ~~or prospective customer~~ to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the ~~utilities division~~ *board*, as conditions

of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer ~~or prospective customer~~ to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the ~~utilities division~~ *board*.

~~g.~~ *(3)* For failure of the customer to permit the utility reasonable access to ~~its~~ *the utility's* equipment.

~~h.~~ *d.* ~~For~~ *Service may be refused or disconnected after proper notice for* nonpayment of bill or deposit, except as restricted by *subrules* 20.4(16) and 20.4(17), provided that the utility has *complied with the following provisions when applicable*:

(1) ~~Made a reasonable attempt to effect collection~~ *Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal*;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account~~, together with~~ *to avoid disconnection and* a written summary of the rights and remedies available ~~to avoid disconnection~~. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account~~, together with~~ *to avoid disconnection and* a written summary of the rights and remedies ~~available to avoid disconnection~~. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide ~~their~~ *the representative's* name ~~to the caller~~, and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) No change.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and remedies, as set forth in subparagraph 20.4(15)"~~h~~ *c*"(3).

Service limitation: We have adopted a policy of service limitation before disconnection. You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office.

(5) No change.

(6) ~~Given the customer a reasonable opportunity to dispute the reason for the disconnection and, if to the extent applicable, complied with each of the following:~~

Disputed bill. ~~In the event there is a~~ *If the customer has received notice of disconnection and has a* dispute concerning a bill for electric ~~utility~~ service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service. *A utility shall delay disconnection* for nonpayment of the disputed bill for up to 45 days after the rendering of the disputed bill *if the customer pays the undisputed amount*. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board *in compliance with 199—Chapter 6*.

*(7)* Special circumstances. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

*(8) Severe cold weather.* A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence~~,~~ on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with *subparagraph* 20.4(15)"~~h~~ *d*"(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees *Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours*, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of ~~this rule.~~ *paragraph 20.4(15)"d."*

*(9)* Health of a resident. Disconnection of a residential customer shall be postponed if the ~~discontinuance~~ *disconnection* of service would present ~~an especial~~ *a serious* danger to the health of any permanent resident of the premises. ~~An especial~~ *A serious* danger to health is indicated if ~~one~~ *a person* appears to be seriously impaired and may, because of mental or physical problems, be unable to manage ~~their~~ *the person's* own resources, *to* carry out activities of daily living or ~~protect oneself~~ *to be protected* from neglect or hazardous situations without assistance from others. Indicators of ~~an especial~~ *a serious* danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the ~~especial~~ *serious* danger to health by a physician or public health official, including the name of the person endangered~~,~~*;* a statement that the person is a resident of the premises in question~~,~~*;* the name, business address, and telephone number of the certifying party~~,~~*;* the nature of the health danger*;* and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

~~Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. The~~ *If the* customer ~~must~~ *does not* enter into a reasonable *payment* agreement for the retirement of the unpaid balance of the account within the first 30 days and *does not* keep the current account paid during the period that the unpaid balance is to be retired~~.~~*, the customer is subject to disconnection pursuant to paragraph 20.4(15)"f."*

~~Reasonable payment agreement. If financial difficulty of a residential customer is confirmed, disconnection may not take place until after the utility has offered the customer an opportunity to enter into a reasonable payment agreement as required by 20.4(11). Disconnection shall be delayed 30 days for the making of a reasonable payment agreement and the 30 days shall be extended to 60 days if requested of the utility by the board upon receipt of a complaint that the utility~~

~~has arbitrarily refused a payment agreement offered by the customer and upon a finding the customer has made payment as provided for in the offered agreement.~~

*(10)* Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date ~~of application~~ *the utility is notified* to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a *residence in which a* resident ~~who is a head of household and who~~ has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. ~~In addition to the notification procedure required herein, the utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 6,000 customers may publish notice in an advertisement in a local newspaper of general circulation or shopper's guide. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing.~~

*e.* Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

~~i.~~ *f.* ~~Without~~ *A utility may disconnect electric service without* the written 12-day notice~~,~~ for failure of the customer to comply with the terms of a payment agreement, provided that:

(1) In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and the customer's rights and remedies~~; if~~. *If* an attempt at personal or telephone contact of a customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, ~~their~~ *the customer's* present location. The landlord shall also be informed of the date when service may be disconnected.

*(2)* During the period November 1 through April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights or remedies available to avoid disconnection at least one day prior to disconnection~~; if~~. *If* the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons therefor. *Disconnection is subject to the provisions of paragraph 20.4(15)"d."*

~~(2) The disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes a payment or other arrangements after normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence, on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit. In any case where the utility has posted a disconnect notice in compliance with 20.4(15)"h"(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provisions of this rule.~~

~~(3) Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage their own resources, carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation. The utility may require written verification of the especial danger to health by a physician or public health official, including the name of the person endangered, a statement that the person is a resident of the premises in question, the name, business address, and telephone number of the certifying party, the nature of the health danger and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.~~

~~Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. The customer must pay the unpaid balance under the payment agreement within the first 30 days and keep the current account paid during the period that disconnection is postponed.~~

*g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000*

*customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.*

~~j~~ *h.* Without the written 12-day notice, for failure of a residential customer who has had service limited in accordance with subrule 20.4(23) to pay the full amount due for past service or to enter into a reasonable payment agreement, provided that:

(1) The minimum time period, as specified in the utility's tariff, for the service limiter to remain in place prior to initiation of the disconnection procedure has elapsed;

(2) The requirements of *paragraph* 20.4(15)"~~i~~ *f*"~~(1)~~, relating to in-person, telephone or posted notice, have been satisfied;

(3) The requirements of ~~20.4(15)"i"(2)~~ *subparagraphs 20.4(15)"d"(7) and (8)*, relating *to* time and temperature restrictions on disconnection are satisfied, to the extent applicable; and

(4) The requirements of ~~20.4(15)"i"(3)~~ *subparagraph 20.4(15)"d"(9)*, relating to health restrictions on disconnection are satisfied, to the extent applicable.

ITEM 17. Amend subrule 20.4(16) as follows:

**20.4(16)** Insufficient reasons for denying service. The following shall not constitute sufficient cause for refusal of service to a ~~present or prospective~~ customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay *the* back bill rendered in accordance with *paragraph* 20.4(14)"~~d.~~" *(slow meters)*.

f. Failure to pay a bill rendered in accordance with *paragraph* 20.4(14)"f."

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which ~~he or she~~ *the customer* has been receiving service.

h. No change.

ITEM 18. Amend subrule 20.4(17) as follows:

**20.4(17)** When disconnection prohibited. No disconnection may take place from November 1 through April 1 for a *residence in which a* resident ~~who is a head of household and who~~ has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program. ~~No disconnection shall take place from April 1, 2001, through May 1, 2001, for eligible residents.~~

# ARC 2379B

# UTILITIES DIVISION[199]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 476.1, 476.2, 479.1, 479.5, 479.6, 479.17, 479A.1, 479A.10, 479B.1, 479B.5, 479B.14, and 17A.4, the Utilities Board (Board) gives notice that on March 13, 2003, the Board issued an order in Docket No. RMU-03-5, In re: Gas Pipeline and Storage Rules Revisions; Executive Orders No. 8 and 9, Required Revisions to Chapters 10, 12, and 13, "Order Commencing Rule Making." The rule making results from the Board's review of its rules in response to Executive Order Numbers 8 and 9 issued by Governor Vilsack on September 14, 1999. The Board, on February 23, 2000, issued an order directing Board staff to conduct a review of the Board's administrative rules. Staff reviewed 199 IAC Chapters 10, 12, and 13, and sent proposed revisions to interested parties.

Responses were received from Alliant Energy Corporation, the Iowa Association of Electrical Cooperatives, the Iowa Association of Municipal Utilities, MidAmerican Energy Company, the Consumer Advocate Division of the Department of Justice, and the Iowa Telecommunications Association.

Revisions were proposed based upon the comments and were submitted to the Governor's office. The Governor has completed his review and the Board is commencing this rule making to receive public comment on proposed revisions to Chapters 10, 12, and 13.

The order commencing the rule making contains a discussion of the background and reasons for this proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before May 1, 2003, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested; or the Board, on its own motion after reviewing the comments, may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 479.1, 479.5, 479.6, 479.17, 479A.1, 479A.10, 479B.1, 479B.5, 479B.14, and 17A.4.

The following amendments are proposed.

UTILITIES DIVISION[199](cont'd)

ITEM 1. Amend the title of **199—Chapter 10** as follows:

CHAPTER 10
INTRASTATE GAS AND ~~HAZARDOUS LIQUID PIPELINES AND~~ UNDERGROUND GAS STORAGE

ITEM 2. Amend rule 199—10.1(479) as follows:

**199—10.1(479) ~~Definitions~~ *General information.***

***10.1(1)*** *Authority. The standards relating to intrastate gas and underground gas storage in this chapter are prescribed by the Iowa utilities board (board) pursuant to Iowa Code section 479.17.*

***10.1(2)*** *Purpose. The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities.*

***10.1(3)*** *Definitions.* ~~Terms~~ *Technical terms* not ~~otherwise herein~~ defined *in this chapter* shall be ~~understood to have their usual meaning~~ *as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:*

**~~10.1(1)~~** "Approximate right angle" ~~shall mean~~ *means* within 5 degrees of a 90 degree angle.

**~~10.1(2)~~** "Board" ~~shall mean~~ *means* the Iowa utilities board *within the utilities division of the department of commerce*.

**~~10.1(3)~~** "Multiple line crossing" ~~shall mean~~ *means* a point at which a proposed pipeline will either overcross or undercross an existing pipeline.

**~~10.1(4) Rescinded IAB 11/19/97, effective 12/24/97.~~**

**~~10.1(5)~~** "Permit" ~~shall mean~~ *means* a new, amended, or renewal permit issued after appropriate application to and determination by the board.

**~~10.1(6)~~** "Pipeline" ~~shall mean~~ *means* any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

**~~10.1(7)~~** "Pipeline company" ~~shall mean~~ *means* any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

**~~10.1(8)~~** "Renewal permit" ~~shall mean~~ *means* the extension and reissuance of a permit after appropriate application to and determination by ~~this~~ *the* board.

**~~10.1(9)~~** "Underground storage" ~~shall mean~~ *means* storage of gas in a subsurface stratum or formation of the earth.

**~~10.1(10) Terms not defined. Technical terms not defined shall be as defined in the appropriate standard adopted in rule 10.12(479).~~**

ITEM 3. Amend subrule 10.2(1) as follows:

**10.2(1)** A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and ~~one copy~~ *two copies* of the petition and exhibits shall be filed. Required exhibits shall be in the following form:

a. Exhibit ~~"~~A.~~"~~ A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with such other information as may be deemed pertinent. Construction deviation of ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* from proposed routing will be permitted.

If it becomes apparent that there will be deviation of greater than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* in some area from the proposed route as filed with ~~this~~ *the* board, construction of ~~such~~ *the* line in ~~such~~ *that* area shall be suspended. Exhibits A, B, E, and F reflecting ~~such~~ *the* deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

b. Exhibit ~~"~~B.~~"~~ Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of such maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated.

(2) The name of the county, county and section lines, and *section,* township and range numbers.

(3) to (5) No change.

c. to k. No change.

ITEM 4. Amend subrule 10.4(1) as follows:

**10.4(1)** When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing*, except as provided for in rule 199—10.8(479)*. Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in ~~some~~ *a* newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to or at ~~such~~ *the* hearing~~, together with receipts showing that the costs of such publication have been paid by the petitioner~~.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

ITEM 5. Amend rule 199—10.7(479) as follows:

**199—10.7(479) Pipeline permit.** If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit ~~will~~ *shall* be issued. Otherwise ~~such~~ *the* petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to ~~160 rods~~ *660 feet (one-eighth mile)* on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of ~~this~~ *the* board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

UTILITIES DIVISION[199](cont'd)

A pipeline permit shall normally expire 25 years from date of issue. No ~~such~~ permit shall ever be granted for a longer period than 25 years.

ITEM 6. Amend rule 199—10.8(479) as follows:

**199—10.8(479) Renewal permits.** ~~Petition~~ *A petition* for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and prior to ~~the~~ expiration ~~thereof~~ *of the permit*. ~~Such~~ *The* petition shall be made on the form prescribed by ~~this~~ *the* board. Instructions for the ~~use thereof~~ *petition* are included as a part of ~~such~~ *the* form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, ~~hearing,~~ and assessment of costs. *If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by 199—10.4(479).* Renewal permits shall normally expire 25 years from date of issue. No ~~such~~ permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

ITEM 7. Amend subrule 10.9(1) as follows:

**10.9(1)** An amendment of pipeline permit by the board is required in any of the following circumstances:

a. No change.

b. Extension of an existing pipeline of petitioner by more than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)*;

c. Relocation of an existing pipeline of petitioner which:

(1) Relocates the pipeline more than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* from the route approved by the board; or

(2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule *199—*10.3(479) shall be held for *these* relocations.

d. and e. No change.

ITEM 8. Amend subrule 10.12(1) as follows:

Rescind paragraph **10.12(1)"e"** and reletter paragraph **"f"** as **"e."**

Amend the unlettered paragraph as follows:

Conflicts between the standards established in ~~the above~~ paragraphs *10.12(1)"a" through "e"* or between the requirements of ~~this~~ rule *199—10.12(479)* and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 9. Amend paragraph **10.18(1)"b"** as follows:

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline ~~to~~ within 300 feet of an occupied residence. Relocations of ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* or more shall require the filing of a petition for permit.

ITEM 10. Amend paragraph **10.18(1)"f"** as follows:

f. Extensions of existing pipelines by ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* or less.

ITEM 11. Rescind rule **199—10.20(479)**.

ITEM 12. Amend rule 199—12.1(479A) as follows:

**199—12.1(479A) ~~Definitions~~ *General information.***

***12.1(1)*** *Authority. The standards relating to interstate natural gas pipelines and underground gas storage in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code section 479A.1.*

***12.1(2)*** *Purpose. The purpose of this chapter is to establish standards regarding the transportation of natural gas to protect landowners and tenants from environmental or economic damages resulting from the construction, operation, or maintenance of pipelines.*

***12.1(3)*** *Definitions.* Terms not otherwise defined in this chapter shall be understood to have their usual meaning. Technical terms not defined shall be as defined by the U.S. Department of Transportation, Office of Pipeline Safety. *For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:*

"Board" ~~shall mean~~ *means* the Iowa utilities board *within the utilities division of the department of commerce*.

"Construction" ~~shall mean~~ *means* the placement or replacement of pipe in the earth, excluding maintenance, repair, or emergency work affecting only short sections of a company's pipeline facilities.

"Pipeline" ~~shall mean~~ *means* any pipe, pipes, or pipelines and appurtenances thereto used for the transportation of natural gas in interstate commerce within or through this state.

"Pipeline company" ~~shall mean~~ *means* a person engaged in or organized for the purpose of owning, operating, or controlling pipelines used for the interstate transportation of natural gas.

"Underground storage" ~~shall mean~~ *means* the storage of natural gas in a subsurface stratum or formation of the earth by a pipeline company *engaged in interstate commerce*.

ITEM 13. Amend rule 199—12.7(479A) as follows:

**199—12.7(479A) Land restoration.** Pipelines shall be constructed in compliance with 199 IAC *Chapter* 9, "~~Protection of Underground Improvements and Soil Conservation Structures and Restoration of Agricultural Lands After Pipeline Construction~~ *Restoration of Agricultural Lands During and After Pipeline Construction*."

ITEM 14. Amend the title of **199—Chapter 13** as follows:

CHAPTER 13
~~INTERSTATE~~ HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

ITEM 15. Amend rule 199—13.1(479B) as follows:

**199—13.1(479B) ~~Definitions~~ *General information.***

***13.1(1)*** *Authority. The standards in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are prescribed by the Iowa utilities board pursuant to Iowa Code section 479B.1.*

***13.1(2)*** *Purpose. The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate a hazardous liquid pipeline and for the underground storage of hazardous liquids.*

***13.1(3)*** *Definitions.* Words and terms not otherwise defined *in this chapter* shall be understood to have their usual meaning. ~~The~~ *For the administration and interpretation of this chapter, the* following words and terms*, when used in these rules,* shall have the ~~meaning~~ *meanings* indicated below:

"Approximate right angle" means within 5 degrees of a 90 degree angle.

UTILITIES DIVISION[199](cont'd)

"Board" means the utilities board within the utilities division of the department of commerce.

"Hazardous liquid" means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

"Multiple line crossing" means a point at which a proposed pipeline will either cross over or under an existing pipeline.

"Permit" means a new, amended, or extended permit issued after appropriate application to and determination by the board.

"Pipeline" means any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid.

"Pipeline company" means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the ~~interstate~~ transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.

"Renewal permit" means the extension and reissuance of a permit after appropriate application to and determination by the board.

"Underground storage" means storage of hazardous liquid in a subsurface stratum or formation of the earth.

ITEM 16. Amend subrule 13.2(1) as follows:

**13.2(1)** A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed. Required exhibits shall be in the following form:

a. Exhibit ~~"~~A.~~"~~ A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with other information as may be deemed pertinent. Construction deviation of ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* from proposed routing will be permitted.

If it becomes apparent there will be a deviation of greater than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* in some area from the proposed route as filed with the board, construction of the line in the area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedure set forth shall be followed upon the filing of a petition for amendment of a permit.

b. Exhibit ~~"~~B.~~"~~ Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of the maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) No change.

(2) The name of the county, county and section lines, and *section,* township and range numbers.

(3) to (5) No change.

c. to k. No change.

ITEM 17. Amend subrule 13.4(1) as follows:

**13.4(1)** When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing*, except as provided for in rule 13.8(479B)*. Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to or at the hearing~~, together with receipts showing that the costs of publication have been paid by the petitioner~~.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

ITEM 18. Amend rule 199—13.7(479B) as follows:

**199—13.7(479B) Pipeline permit.** If after hearing and appropriate findings of fact it is determined a permit should be granted, a permit ~~will~~ *shall* be issued. Otherwise, the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to ~~160 rods~~ *660 feet (one-eighth mile)* on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

A permit shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years.

ITEM 19. Amend rule 199—13.8(479B) as follows:

**199—13.8(479B) Renewal permits.** ~~Petition~~ *A petition* for renewal of permit may be filed at any time subsequent to issuance of a permit and prior to expiration. The petition shall be made on the form prescribed by the board. Instructions for the ~~use thereof~~ *petition* are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, ~~hearing,~~ and assessment of costs. *If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by subrule 13.4(1).* Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479B.14.

ITEM 20. Amend subrule 13.9(1) as follows:

**13.9(1)** An amendment of pipeline permit by the board is required in any of the following circumstances:

a. No change.

b. Extension of an existing pipeline of petitioner by more than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)*;

c. Relocation of an existing pipeline of petitioner which:

(1) Relocates the pipeline more than ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* from the route approved by the board; or

(2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated

UTILITIES DIVISION[199](cont'd)

at over 150 psig. Informational meetings as provided for by rule 13.3(479B) shall be held for *these* relocations.

d. and e. No change.

ITEM 21. Amend rule 199—13.12(479B) as follows:

**199—13.12(479B) Land restoration.** Pipelines shall be constructed in compliance with 199 IAC *Chapter* 9, "~~Protection of Underground Improvements and Soil Conservation Structures and Restoration of Agricultural Lands After Pipeline Construction~~ *Restoration of Agricultural Lands During and After Pipeline Construction*."

ITEM 22. Amend paragraph **13.18(1)"b"** as follows:

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline to within 300 feet of an occupied residence. Relocations of ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* or more shall require the filing of a petition for amendment of a permit.

ITEM 23. Amend paragraph **13.18(1)"e"** as follows:

e. Extensions of existing pipelines by ~~160 rods (one-half mile)~~ *660 feet (one-eighth mile)* or less.

ITEM 24. Rescind rule **199—13.20(479B)**.

# ARC 2387B

# UTILITIES DIVISION[199]

## Amended Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, 476.1B, 476.1C, 476.2, 476.4, and 476.6 (2003), the Utilities Board (Board) gives notice that a public hearing to receive oral comments in Docket No. RMU-03-1, In re: Executive Orders 8 and 9, Required Revisions to Chapters 19, 20, 21, 35, and 36, is scheduled for May 9, 2003, at 1 p.m., in the Board's hearing room located at 350 Maple Street, Des Moines, Iowa. The public hearing is being scheduled to allow interested persons to comment on the proposed amendments to 199 IAC Chapters 19, 20, 21, 35, and 36. The proposed amendments are designed to update, clarify, and revise the rules in those chapters in response to Executive Order Numbers 8 and 9. The proposed amendments were published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2284B**.

## ARC 2401B

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 65, "Administration," Iowa Administrative Code.

This amendment implements provisions of the 2002 Farm Bill restoring food stamp eligibility to some legal immigrants whose eligibility was limited under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Specifically, this amendment:

- Changes the eligibility threshold for legal permanent residents to five years' residence in the United States instead of 40 qualifying quarters of coverage under the Social Security Act.
- Removes a seven-year limit on benefits for refugees, Cuban and Haitian entrants, Amerasians, asylees, and aliens whose deportation or removal has been withheld.

This amendment does not provide for waivers in specified situations because it provides a benefit to the people affected.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on January 22, 2003, as **ARC 2248B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to the Notice of Intended Action.

The Council on Human Services adopted this amendment on March 12, 2003.

The Department finds that this amendment confers a benefit on the people affected. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of the amendment shall be waived.

This amendment became effective April 1, 2003.

This amendment is intended to implement Iowa Code section 234.12.

The following amendment is adopted.

Amend rule 441—65.37(234) as follows:

**441—65.37(234) Eligibility of ~~blind or disabled~~ noncitizens.** ~~Aliens~~ *The following groups of aliens who are* lawfully residing in the United States ~~who~~ *and* are otherwise eligible ~~and~~ *are eligible for food stamp benefits:*

***65.37(1)*** *Aliens who* are receiving benefits or assistance for blindness or disability as specified in 7 CFR 271.2, as amended to April 6, 1994, ~~are eligible for food stamp benefits~~ regardless of their immigration date.

***65.37(2)*** *Aliens who have been residing in the United States for at least five years as legal permanent residents.*

***65.37(3)*** *Aliens who hold one of the following statuses:*

*a. A refugee admitted under Section 207 of the Immigration and Nationality Act.*

*b. A Cuban or Haitian entrant admitted under Section 501(e) of the Refugee Education Assistance Act of 1980.*

*c. An Amerasian immigrant admitted under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act.*

*d. An asylee admitted under Section 208 of the Immigration and Nationality Act.*

*e. An alien whose deportation or removal has been withheld under Section 243(h) or 2411(b)(3) of the Immigration and Nationality Act.*

[Filed Emergency After Notice 3/14/03, effective 4/1/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2402B

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment extends limited Medicaid eligibility for "expanded specified low-income Medicare beneficiaries" for six months. Coverage under this group is limited to payment of Medicare Supplemental Medical Insurance (Part B) premiums only ($58.70 per month effective January 1, 2003). Federal legislation established this 100 percent federally funded coverage group, which was scheduled to expire on December 31, 2002, but has been extended through September 30, 2003.

Since the Department does not have funding to continue this coverage without federal support, the Department adopted rules to end coverage under this group effective with the expiration of federal funding. Rules published on October 30, 2002, as **ARC 2073B** implemented the original termination date. Rules published on January 8, 2003, as **ARC 2237B** extended coverage through March 31, 2003, as authorized by Public Law 107-244. This amendment delays the termination for six more months to allow eligible recipients to take advantage of the extension in federal funding authorized by Public Law 108-5 and Public Law 108-7.

This amendment does not provide for waivers in specified situations because it confers a benefit on people eligible for benefits under this group.

The Department finds that notice and public participation are impracticable because the rule must be changed in order to continue coverage that had previously been terminated. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department finds that this amendment confers a benefit. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date is waived.

The Council on Human Services adopted this amendment on March 12, 2003.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment became effective April 1, 2003.

The following amendment is adopted.

Amend subrule 75.1(36), introductory paragraph, as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

**75.1(36)** Expanded specified low-income Medicare beneficiaries. Through ~~March 31~~ *September 30*, 2003, Medicaid benefits to cover the cost of the Medicare Part B premium shall be available to persons who are entitled to Medicare Part A provided the following conditions are met:

[Filed Emergency 3/14/03, effective 4/1/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2365B

# PUBLIC SAFETY DEPARTMENT[661]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 100.1, 100.35 and 231C.4, the Department of Public Safety hereby amends Chapter 5, "Fire Marshal," Iowa Administrative Code.

Iowa Code section 100.1(5) assigns to the State Fire Marshal the exclusive authority to adopt fire safety rules in Iowa. Iowa Code section 100.35 enumerates various sorts of occupancies, including hospitals and licensed health care facilities, for which the State Fire Marshal is required to adopt rules. Iowa Code section 231C.4 authorizes the State Fire Marshal to adopt fire safety requirements for assisted living facilities, in coordination with the Department of Elder Affairs.

Hospitals, licensed health care facilities, and assisted living facilities in Iowa are required to comply with fire safety requirements established by the State Fire Marshal in order to obtain and maintain licensure or certification. In addition, they are required to comply with fire safety requirements established by the federal Centers for Medicare and Medicaid Services in order to be eligible for reimbursement under the Medicare and Medicaid programs. The federal fire safety regulations have been changed so that, as of March 11, 2003, the fire safety requirements for facilities providing services subject to reimbursement from Medicare or Medicaid are based on compliance with provisions applicable to the particular type of facility from the 2000 edition of the Life Safety Code published by the National Fire Protection Association. As of September 11, 2003, each individual facility providing services under the Medicare and Medicaid programs must be in compliance with applicable provisions of the 2000 edition of the Life Safety Code.

These amendments are intended to ease the transition to the new requirements for facilities subject both to the rules of the State Fire Marshal and to the fire safety regulations of the Centers for Medicare and Medicaid Services. Generally, the approach taken is to allow the use of either the existing requirements, most of which are based upon the 1985 edition of the Life Safety Code, or the new requirements until September 11, 2003, and then to require compliance with the new requirements as of September 11, 2003. Among the provisions that may continue to be used until September 11, 2003, are those that allow, in limited cases, compliance with provisions of earlier editions of the Life Safety Code. Also, plan reviews for new facilities or facilities engaging in major renovation or remodeling will be based upon the new requirements as of March 11, 2003.

An exception to the general pattern of allowing use of either the new standards or the old standards for compliance by individual facilities as of March 11, 2003, and requiring adherence to the requirements of the new standards as of September 11, 2003, is the treatment of intermediate care facilities for the mentally retarded (ICFs/MR). Iowa Code section 135C.2(3)"c" requires ICFs/MR to comply with the requirements of the 1985 edition of the Life Safety Code. Consequently, under the current statutory provision, from September 11, 2003, on, these facilities will be required to comply with both the relevant requirements of the 1985 edition of the Life Safety Code and those of the 2000 edition of the Life Safety Code. House File 387 proposes to amend the statute so that the choice of the edition of the Life Safety Code to be used would be a matter for rule making. If this provision is enacted, the State Fire Marshal and the Department of Public Safety intend to revise the rule prior to September 11, 2003, so that adherence to the requirements of the 2000 edition of the Life Safety Code by ICFs/MR would satisfy both state and federal law.

The treatment of assisted living facilities also varies somewhat from the general pattern of other rules amended here. Currently, assisted living facilities are required to comply with relevant provisions of the 1994 edition of the Life Safety Code. This option will remain open for the time being to these facilities, although the State Fire Marshal and the Department of Public Safety intend to undertake in the next few months rule making that will require assisted living facilities to comply with the relevant provisions of the 2000 edition of the Life Safety Code. For now, compliance with the 2000 edition of the Life Safety Code will be required only of assisted living facilities that are certified or seeking certification for eligibility for reimbursement under the federal Medicare and Medicaid programs. For existing facilities, this requirement will be effective September 11, 2003.

These amendments will be included in a Notice of Intended Action that will be filed by the State Fire Marshal and the Department of Public Safety in the near future. Additional related amendments may also be included in the Notice. The Notice of Intended Action, which will include a public hearing, will allow for public comment and participation.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments is impracticable. New federal regulations establishing fire safety requirements for hospitals, licensed health care facilities, and assisted living facilities whose services are eligible for reimbursement under the federal Medicare and Medicaid programs took effect on March 11, 2003, the same day on which these amendments became effective. Coordinating the federal and state requirements for these facilities is essential.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments made effective March 11, 2003, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by facilitating compliance by hospitals, licensed health care facilities, and assisted living facilities with applicable state and federal fire safety requirements.

These amendments became effective March 11, 2003.

These amendments are intended to implement Iowa Code section 100.35 and chapters 135B, 135C, 135J and 231C and 42 CFR Parts 403, 416, 418, 482 and 483.

The following amendments are adopted.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 1. Rescind and reserve rules **661—5.550(100)** through **661—5.602(100)**.

ITEM 2. Renumber rule **661—5.603(100)** as **661—5.916(100)** and add the following **new** exceptions:

EXCEPTION 1: An intermediate care facility for persons with mental illness (ICF/PMI) that begins operation on or after September 11, 2003, or that received plan approval for initial construction or for its most recent major renovation or remodeling project on or after March 11, 2003, may comply with the requirements established in NFPA 101, Life Safety Code, 2000 edition, Chapter 32, in lieu of compliance with the requirements established in rule 661—5.916(100).

EXCEPTION 2: An intermediate care facility for persons with mental illness (ICF/PMI) that begins operation prior to September 11, 2003, or that received plan approval for initial construction or for its most recent major renovation or remodeling project prior to March 11, 2003, may comply with the requirements established in NFPA 101, Life Safety Code, 2000 edition, Chapter 33, in lieu of compliance with the requirements established in rule 661—5.916(100).

ITEM 3. Amend rule 661—5.626(231C) as follows:

Amend subrule **5.626(1)** by adding the following **new** definition in alphabetical order:

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

Adopt the following **new** subrule:

**5.626(4)** Alternative requirements. In lieu of complying with the requirements established in subrule 5.626(2) or 5.626(3), assisted living facilities may alternatively comply with the requirements established in this subrule. Any assisted living facility certified or seeking certification for reimbursement under the federal Medicare and Medicaid programs shall comply with the provisions of this subrule as of September 11, 2003.

a. An assisted living facility that begins operation on or after September 11, 2003, or that received plan approval for initial construction or for its most recent major renovation or remodeling project on or after March 11, 2003, may comply with the requirements established in NFPA 101, Life Safety Code, 2000 edition, Chapter 32, in lieu of compliance with the requirements established in subrule 5.626(2).

b. An assisted living facility that begins operation prior to September 11, 2003, or that received plan approval for initial construction or for its most recent major renovation or remodeling project prior to March 11, 2003, may comply with the requirements established in NFPA 101, Life Safety Code, 2000 edition, Chapter 33, in lieu of compliance with the requirements established in subrule 5.626(3).

ITEM 4. Adopt the following **new** rules:

HOSPITALS AND LICENSED HEALTH CARE FACILITIES

**661—5.900(100) Definitions.** The following definitions apply to rules 661—5.900(100) through 661—5.925(100).

"Ambulatory health care facility" means a facility or portion thereof used to provide services or treatment that provides, on an outpatient basis, treatment for one or more patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others; or provides, on an outpatient basis, anesthesia that renders the patient incapable of taking action for self-preservation under emergency conditions without the assistance of others.

"Existing" means that a facility (1) has been in continuous operation under its current classification of occupancy since before September 11, 2003, and has not undergone major renovation or remodeling on or after September 11, 2003, or (2) received plan approval for initial construction or for its most recent major renovation or remodeling project, if any, from the building code bureau of the fire marshal division prior to March 11, 2003.

"Hospice" means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

"Hospital" means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

"Intermediate care facility for the mentally retarded" means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.2(3)"c."

"New" means that a facility (1) commenced continuous operation under its current classification of occupancy on or after September 11, 2003, (2) has undergone major renovation or remodeling on or after September 11, 2003, or (3) received plan approval from the building code bureau of the fire marshal division for the initial construction of the facility or the most recent major renovation of the facility on or after March 11, 2003.

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

"Nursing facility" means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6, including a nursing facility for intermediate care or a nursing facility for skilled care.

**661—5.901** to **5.904** Reserved.

**661—5.905(100) Hospitals.**

**5.905(1)** New hospitals. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new hospitals.

**5.905(2)** Existing hospitals. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing hospitals, with the following amendments:

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

Section 19.2.9 is not effective prior to March 13, 2006.

EXCEPTION 1: Prior to September 11, 2003, existing hospitals may comply with NFPA 101, Life Safety Code, 1985 edition, Chapter 13, in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

EXCEPTION 2: Prior to September 11, 2003, any hospital that on or before May 9, 1988, complied with the relevant provisions of NFPA 101, Life Safety Code, 1981 edition, may continue to comply with those provisions in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

EXCEPTION 3: Prior to September 11, 2003, any hospital that on or before November 26, 1982, complied with the relevant provisions of NFPA 101, Life Safety Code, 1967 edition, may continue to comply with those provisions in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

**661—5.906** to **5.909** Reserved.

**661—5.910(100) Nursing facilities and hospices.**

**5.910(1)** New nursing facilities and hospices. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new nursing facilities and hospices that provide inpatient care directly.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

**5.910(2)** Existing nursing facilities and hospices. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing nursing facilities and hospices that provide inpatient care directly, with the following amendments:

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

Section 19.2.9 is not effective prior to March 13, 2006.

EXCEPTION 1: Prior to September 11, 2003, existing nursing facilities or hospices that provide inpatient care directly may comply with the provisions of NFPA 101, Life Safety Code, 1985 edition, Chapter 13, in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

EXCEPTION 2: Prior to September 11, 2003, any existing nursing facility or hospice that provides inpatient care directly, that on or before May 9, 1988, complied with the relevant provisions of NFPA 101, Life Safety Code, 1981 edition, may continue to comply with those provisions in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

EXCEPTION 3: Prior to September 11, 2003, any existing nursing facility or hospice that provides inpatient care directly, that on or before November 26, 1982, complied with the relevant provisions of NFPA 101, Life Safety Code, 1967 edition, or NFPA 101, Life Safety Code, 1973 edition, may continue to comply with those provisions in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

**661—5.911** to **5.914** Reserved.

**661—5.915(100) Intermediate care facilities for the mentally retarded.**

**5.915(1)** New intermediate care facilities for the mentally retarded. New intermediate care facilities for the mentally retarded shall comply with the provisions of one of the following:

a. NFPA 101, Life Safety Code, 1985 edition, Chapter 12.

b. NFPA 101, Life Safety Code, 1985 edition, Chapter 21.

NOTE 1: Compliance with the provisions of either Chapter 12 or Chapter 21 of NFPA 101, Life Safety Code, 1985 edition, is required by Iowa Code section 135C.2(3)"c."

NOTE 2: As of September 11, 2003, new intermediate care facilities for the mentally retarded will be required to comply with the provisions of either Chapter 18 or Chapter 32 of NFPA 101, Life Safety Code, 2000 edition, in order to be eligible for certification for reimbursement under the federal Medicare and Medicaid programs.

**5.915(2)** Existing intermediate care facilities for the mentally retarded. Existing intermediate care facilities for the mentally retarded shall comply with the provisions of one of the following:

a. NFPA 101, Life Safety Code, 1985 edition, Chapter 13.

b. NFPA 101, Life Safety Code, 1985 edition, Chapter 21.

NOTE 1: Compliance with either Chapter 13 or Chapter 21 of NFPA 101, Life Safety Code, 1985 edition, is required by Iowa Code section 135C.2(3)"c."

NOTE 2: As of September 11, 2003, existing intermediate care facilities for the mentally retarded will be required to comply with the provisions of either Chapter 19 or Chapter 33 of NFPA 101, Life Safety Code, 2000 edition, in order to be eligible for certification for reimbursement under the federal Medicare and Medicaid programs.

[Rule 661—5.603(100) renumbered as 661—5.916(100) in Item 2 herein]

**661—5.917** to **5.919** Reserved.

**661—5.920(100) Ambulatory health care facilities.**

**5.920(1)** New ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 20, is adopted by reference as the fire safety rules for new ambulatory health care facilities.

**5.920(2)** Existing ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 21, is adopted by reference as the fire safety rules for existing ambulatory health care facilities, with the following amendments:

Section 21.2.9.1 is not effective prior to March 13, 2006.

EXCEPTION 1: Prior to September 11, 2003, existing ambulatory health care facilities may comply with NFPA 101, Life Safety Code, 1985 edition, Section 13-6, in lieu of NFPA 101, Life Safety Code, 2000 edition, Chapter 21.

EXCEPTION 2: Prior to September 11, 2003, an existing ambulatory health care facility which on or prior to May 9, 1988, complied with the relevant requirements of NFPA 101, Life Safety Code, 1981 edition, may continue to comply with those requirements in lieu of compliance with NFPA 101, Life Safety Code, 2000 edition, Chapter 21.

**661—5.921** to **5.924** Reserved.

**661—5.925(100) Religious nonmedical health care institutions.**

**5.925(1)** New religious nonmedical health care institutions. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new religious nonmedical health care institutions.

**5.925(2)** Existing religious nonmedical health care institutions. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing religious nonmedical health care institutions, with the following amendments:

Effective March 13, 2003, Section 19.3.6.3.2, Exception No. 2, is deleted.

Section 19.2.9 is not effective prior to March 13, 2006.

EXCEPTION: Prior to September 11, 2003, existing religious nonmedical health care institutions may comply with the provisions for existing health care facilities of NFPA 101, Life Safety Code, 1997 edition, in lieu of compliance with the provisions of NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

Rules 661—5.900(100) to 661—5.925(100) are intended to implement Iowa Code section 100.35.

[Filed Emergency 3/10/03, effective 3/11/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2362B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11) and 166D.1, the Department of Agriculture and Land Stewardship hereby amends Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The purpose of this amendment is to increase from 6 months to 12 months the time period for which a pseudorabies monitoring test is valid for purposes of relocation of swine. The amendment does not change the testing requirements for swine sales.

Notice of Intended Action was published in the January 22, 2003, Iowa Administrative Bulletin as **ARC 2247B**. No public comment was received on this amendment. In addition, this amendment was simultaneously Adopted and Filed Emergency as **ARC 2249B**. The adopted amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 166D.

This amendment will become effective May 7, 2003, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 64.156(2) as follows:

**64.156(2)** Iowa monitored feeder pig herd.

a. Test requirements for a monitored feeder pig herd status include a negative herd test every ~~six~~ *12* months of randomly selected breeding animals according to the following schedule:

| | |
|---|---|
| 1-10 head | Test all |
| 11-35 head | Test 10 |
| 36 or more | Test 30 percent or 30, whichever is less. |

Effective July 1, 2000, all breeding herd locations in Stage II counties must have a monitored or better status or move by restricted movement.

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is ~~six~~ *12* months from the date that the certifying tests were drawn will be printed on the card.

It is the owner's responsibility to retest the herd ~~semiannually~~ *annually*. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

(1) A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.

(2) Pseudorabies infection is diagnosed.

(3) Recertification test is not done on time.

(4) Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

d. Feeder pigs ~~may be~~ sold for further feeding *require a monitoring test conducted within the six months prior to movement* ~~without additional testing while the "monitored" status is maintained and~~ *if* the feeder pigs have been maintained on the same site as the breeding herd.

e. Monitored, or higher, status feeder pigs sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to resale.

f. Nursery units located in Stage II counties and not in the vicinity of the breeding herd are required to maintain a monitored status on the nursery unit in order for the swine to be eligible to be relocated to a finishing premises. *Feeder pigs sold from these nursery units must meet the requirements of a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to sale.* An official random-sample test shall be required for each segregated group of swine on an individual premises every ~~six~~ *12* months for the maintenance of this monitored status. These testing requirements apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all nursery locations in Stage II counties must have a monitored or better status or move by restricted movement.

g. Off-site finishing units located in the Stage II counties are required to maintain a monitored status on the finishing unit in order for the swine to be eligible to be sold to slaughter. An official random-sample test will be required for each segregated group of swine on an individual premises every ~~six~~ *12* months for the maintenance of this monitored status. These testing requirements also apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all finishing locations in Stage II counties must have a monitored or better status or move by restricted movement.

*h. Relocation, and sales to slaughter, require a 12-month monitoring test.*

[Filed 3/6/03, effective 5/7/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2385B

## ALCOHOLIC BEVERAGES DIVISION[185]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 123.21, the Alcoholic Beverages Division of the Department of Commerce hereby amends Chapter 5, "License and Permit Division," and Chapter 12, "Forms," Iowa Administrative Code.

The Alcoholic Beverages Division amends rule 185—5.8(123) and adopts new subrule 12.2(12) to better interpret Iowa Code section 123.92. Under this statute, a person who is injured in person or property or means of support by an intoxicated person, or as a result of the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee who sold intoxicating liquors to the intoxicated person, when the licensee or permittee should have known that the person was intoxicated.

In August of 2000, five-year-old Cassidy Mahedy was killed in Des Moines when an intoxicated driver struck her. In light of this tragic event and many similar incidents across the state, the Division decided to review the dramshop liability insurance requirements set forth in rule 185—5.8(123). Upon review of the rule, the Division found that the mini-

mum requirements for insurance in Iowa had not been altered since inception of the rule and that the requirements were drastically low when compared to many other jurisdictions. The Alcoholic Beverages Division, in consultation with the Insurance Division of the Department of Commerce, undertook this rule making to amend Chapter 5 to change the minimum dramshop insurance requirements to more accurately reflect today's cost of living and to conform to the statutory guidelines of the Iowa Code.

The amendments to Chapter 5 make technical and editorial changes, as well as make the rule more consistent with Iowa Code section 123.92. The Division examined a number of factors when considering the impact the proposed amendments would have on insurance premiums for licensed liquor establishments. The Division sought input from industry members in addition to public comments as required by Iowa Code section 17A.4.

A telephonic meeting was held by the Alcoholic Beverages Commission at 3 p.m., Wednesday, March 6, 2003, in the Conference Board Room, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa, at which time the Commission approved the amendments for adoption by the Administrator. The Administrator adopted the amendments on March 6, 2003.

Notice of Intended Action was published in the August 8, 2001, Iowa Administrative Bulletin as **ARC 0854B**. A public hearing was held at 2 p.m., Tuesday, August 28, 2001, in the Conference Board Room, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa, at which time both written and oral comments were received.

Representatives of the Division met with members of the Administrative Rules Review Committee during its meeting in September 2001. The Committee requested the Division to prepare a regulatory analysis of the proposed amendments in accordance with Iowa Code section 17A.4A. The regulatory analysis was published in the Iowa Administrative Bulletin on August 21, 2002. On September 10, 2002, representatives of the Division met with Committee members to discuss the results of the regulatory analysis.

A second public hearing was held at 2 p.m., Tuesday, September 10, 2002, in the Conference Board Room, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa, to discuss the regulatory analysis and to address concerns of both the licensee and insurance communities. Both written and oral comments were received during the hearing.

The following changes were made as the result of comments received. Nonsubstantive changes were made to subrule 5.8(1) to clarify the text. In subrule 5.8(2), the word "incident" was deleted at the suggestion of the Insurance Division. Paragraph 5.8(2)"c" was deleted and the remaining paragraphs renumbered because the added requirement would likely result in rate increases when claims involving property damage would most likely be covered by an alternate form of insurance. In relettered 5.8(2)"c," the minimum amount of coverage was reduced from $50,000 to $25,000, and in relettered 5.8(2)"d," the minimum amount of coverage was reduced from $100,000 to $50,000. Nonsubstantive changes were made to subrule 5.8(4) to clarify the text. Subrule 5.8(5) was deleted and the remaining subrules renumbered in response to concerns expressed by the insurance industry. In renumbered subrule 5.8(5), language was restored to allow ordinary or customary exclusions that might also be found in a commercial liability policy. In subrule 5.8(7), the word "electronic" was added at the request of the Alcoholic Beverages Commission. The implementation date cited in renumbered subrule 5.8(10) was changed from "January 1, 2002" to "September 1, 2003." Licensees and permittees applying for new and renewal licenses and permits during the 12-month period beginning September 1, 2003, and ending August 31, 2004, shall be required to have the requisite amount of insurance set forth by these amendments. The Division and members of the insurance industry agreed that, without adequate time to study and rate the amendments to rule 185—5.8(123), companies would discontinue writing dramshop insurance in the Iowa market. Fewer companies would result in a less competitive market, thereby raising dramshop insurance rates.

Although comments were received suggesting deletion of the "assault and battery" provision found in renumbered subrule 5.8(9), the Division determined that the provision should remain in the subrule since assault and battery claims are statutorily covered under the Dramshop Act. Unlike property damage, for which there is typically alternative insurance coverage that can make an innocent injured third party whole, assault and battery claims are excluded from most general liability policies. Thus, if insurance companies were allowed to exclude assault and battery claims, most innocent third parties would have little or no protection.

These amendments are intended to implement Iowa Code sections 123.92, 123.93 and 123.94.

These amendments will become effective May 8, 2003.

The following amendments are adopted.

ITEM 1. Amend rule 185—5.8(123) as follows:

**185—5.8(123) Dramshop liability insurance requirements.** For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a liability insurance policy ~~must~~ *shall* meet the following requirements.

**5.8(1)** Current certificate required. ~~It~~ *The dramshop liability certificate of insurance* shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections 515.147 to 515.149. The dramshop policy ~~must~~ *shall* take effect the day the license or permit takes effect and ~~must run~~ *shall continue* until the expiration date of the license or permit. A new dramshop *liability certificate of insurance* ~~and a new bond~~ shall be provided each time the division issues a new license ~~with a new license number~~ or a new permit ~~with a new permit number~~.

~~**5.8(2)** Countersigned. It must be countersigned by a resident insurance agent licensed by the issuing company.~~

**5.8(~~3~~)** *(2)* ~~Limits of liability.~~ *Minimum coverage required.* ~~It must~~ *The dramshop liability insurance policy shall* provide the following ~~limits of liability~~ *minimum liability coverage*, exclusive in interests and cost of action, per ~~accident~~ *occurrence*: ~~(For the purpose of this subrule, the word "accident" shall mean any one occurrence, or any one accident, or series of accidents or occurrences arising out of any one event, or any one case of intoxication.)~~

a. ~~Ten~~ *Fifty* thousand dollars ~~in respect to any one person who shall be injured in person or killed~~ *for bodily injury to or death of one person in each claim or occurrence*.

b. ~~Subject to the limitation stated above as respects any one person, $20,000 in respect to all persons who shall be injured in person or killed~~ *One hundred thousand dollars for bodily injury to or death of two or more persons in each occurrence*.

c. ~~Five thousand dollars in respect to any and all persons who shall be injured in means of support~~ *Twenty-five thou-*

*sand dollars for loss of means of support of any one person in each occurrence.*

*d. Fifty thousand dollars for loss of means of support of two or more persons in each occurrence.*

***5.8(3)*** *Permitted policies. All dramshop policies issued under this rule shall be occurrence-based policies, not claims-made-based policies.*

*a. Claims-made-based policies. Claims-made-based policies provide liability coverage only if a written claim is made during the policy period, or any applicable extended reporting period.*

*b. Occurrence-based policies. Occurrence-based policies provide liability coverage only for injury or damage that occurs during the policy period regardless of the number of written claims made.*

**5.8(4)** Cancellation. ~~A surety~~ *An insurance* company or ~~a principal~~ *an insured* may cancel a ~~bond~~ *liability policy* by giving a minimum of 30 days' prior written notice to ~~this~~ *the* division of the party's intent to cancel the ~~bond~~ *liability policy.* The 30-day period shall begin on the date that ~~this~~ *the* division receives the notice of cancellation. The party seeking to cancel a ~~bond~~ *liability policy* shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, and further shall mail a copy of the notice of cancellation to the ~~other party~~ *licensee or permittee*, at that party's post office address. The notice of cancellation shall contain: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the ~~bond~~ *liability policy* is being canceled, and the liquor control license or permit number of the licensee or permittee to be affected by such cancellation. ~~The cancellation or notice thereof shall have no force or effect in the event that the principal's liquor control license or permit has been revoked during the period of the policy, or where an administrative hearing complaint has been filed, and charges are currently pending against the licensee or permittee which could result in revocation of the license or permit after an administrative hearing on the complaint.~~

**5.8(5)** Civil tort liability. Subject to ~~these~~ *the* ~~conditions and exclusions~~ *ordinary or customary exclusions* usually found in a policy of dramshop liability insurance, the policy ~~must~~ *shall* contain coverage to insure against all civil tort liability of the insured, created under Iowa Code sections 123.92, 123.93 and 123.94, as ~~they~~ *those sections* now exist or may hereafter be amended.

**5.8(6)** Proof of financial responsibility. A licensee or permittee shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and 123.94 when ~~it~~ *the licensee or permittee* has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by 185—subrule ~~12.2(8)~~ *12.2(12)*.

**5.8(7)** Signature required. Copies of the form described above shall not be deemed properly executed unless the authorized company representative executing the same shall first have filed with the division a sample of the representative's signature. ~~Facsimile~~ *Electronic and facsimile* signatures will be acceptable.

***5.8(8)*** *Multiple establishment insurance policies. Any licensee that holds multiple licenses throughout the state may purchase an aggregate dramshop insurance policy for all locations provided that:*

*a. The amount of coverage for the aggregate policy is equal to the minimum required coverage multiplied by the number of establishments covered under the dramshop policy.*

*b. The aggregate policy provides at least the minimum level of coverage required under this rule for each and every location covered by the policy.*

*c. All other provisions of this rule are met by the aggregate policy.*

***5.8(9)*** *Assault and battery policy requirement. Any dramshop insurance policy issued under this rule shall not contain an exclusionary clause for assault and battery or intentional force with regard to:*

*a. Employees, agents or any person acting as an agent of the establishment.*

*b. All patrons or visitors to the establishment.*

***5.8(10)*** *Implementation dates. During the 12-month period commencing on September 1, 2003, all licensees and permittees applying for or renewing a license or permit shall obtain a dramshop insurance policy that conforms to the provisions of rule 5.8(123).*

This rule is intended to implement Iowa Code sections ~~123.4, 123.21(11),~~ 123.92, 123.93 and 123.94.

ITEM 2. Rescind subrule 12.2(12) and adopt in lieu thereof the following **new** subrule:

**12.2(12)** Certification of dramshop liability.

License/Permit # _____

STATE OF IOWA
IOWA DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGES DIVISION

**DRAMSHOP LIABILITY CERTIFICATE OF INSURANCE**
**LIQUOR CONTROL LICENSE AND CLASS "B" BEER PERMIT**

Filed with
IOWA DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGES DIVISION
1918 S.E. Hulsizer Road
Ankeny, Iowa 50021

(Execute in Duplicate)

THIS IS TO CERTIFY THAT _____
(Name of Company)

(hereinafter called Company), of _____
(Home address of company)

is issued the following policy:

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Policy number: _____
Assured: _____
Location: _____
_____
Effective Dates: _____ through _____

The above-mentioned policy of insurance (hereinafter policy) contains coverage to comply with the provisions of Iowa Code section 123.92 and all rules of the Iowa Department of Commerce, Alcoholic Beverages Division.

The policy may be canceled by the Company of the Assured giving **30 days' notice** in writing to the Alcoholic Beverages Division at its office, Ankeny, Iowa. The 30 days' notice will commence from the date notice is actually received by the division.

Whenever requested by the division, the company agrees to furnish to the division a duplicate original of the policy and all pertinent endorsements.

Dated this day of _____, _____

_____ _____
Company Contact Person Authorized Company Representative

_____
Address

_____
Contact Telephone #

_____
Fax #

This document is an open record. Information contained in this document may be disclosed without prior notice to or permission from the subject. See Iowa Code chapters 22 and 123; see also 185 IAC 18.

[Filed 3/14/03, effective 5/8/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2400B

## EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts Chapter 11, "Unsafe School Choice Option," Iowa Administrative Code.

This chapter is being adopted to update the rules in conformity with new federal legislation, the No Child Left Behind Act of 2001. This Act requires each state to establish and implement a statewide policy ensuring that a student who attends a persistently dangerous public school or who becomes a victim of a violent criminal offense while in or on the grounds of the attendance center be allowed to attend a safe public school.

A public hearing was held on January 3, 2003. No changes to the rules were made as a result of any written or oral comments received. These rules are identical to those published under Notice of Intended Action in the Iowa Administrative Bulletin on December 11, 2002, as **ARC 2175B**.

These rules will become effective May 7, 2003.

These rules are intended to implement the No Child Left Behind Act of 2001, Public Law 107-110, 115 Stat. 1425.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 11] is being omitted. These rules are identical to those published under Notice as **ARC 2175B**, IAB 12/11/02.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

## ARC 2395B

## EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts amendments to Chapter 18, "School Fees," Iowa Administrative Code.

This chapter describes the procedures for applying, issuing or denying waivers from school fees. The amendment makes corrections that were identified as a result of reviews conducted in accordance with Executive Order Number 11. It eliminates Supplemental Security Income (SSI) guidelines as an eligibility standard to meet the requirements for waivers of school fees. Not all students who are SSI recipients come from low-income families. Iowa Code section 256.20, however, limits the applicability of the rule to students from indigent families. SSI recipient students who are from low-income families will not be affected by this rule change. These students can continue to qualify for the waiver based upon the student's or the student's family's satisfaction of one of the four criteria, which include income eligibility for free meals under the Child Nutrition Program or the Family Investment Program (FIP), eligibility for free transportation or placement in foster care.

A public hearing was held, and no written or oral comments were received. This amendment is identical to that published under Notice of Intended Action in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2275B**.

This amendment will become effective May 7, 2003.

This amendment is intended to implement Executive Order Number 11.

The following amendment is adopted.

Amend subrule **18.3(1)**, paragraph **"a,"** as follows:

EDUCATION DEPARTMENT[281](cont'd)

a. Waiver. A student shall be granted a waiver of all fees covered by this chapter if the student or the student's family meets the financial eligibility criteria for free meals offered under the Child Nutrition Program, or the Family Investment Program (FIP), ~~or Supplemental Security Income (SSI) guidelines,~~ or transportation assistance under open enrollment provided under 281—subrule 17.9(3), or if the student is in foster care.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

# ARC 2397B

# EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 51, "Approval of On-the-Job Training Establishments Under the Veteran's Readjustment Act of 1966 as Amended," Iowa Administrative Code.

The amendments update the rules governing approval of on-the-job training establishments by Department of Education staff and provide the statutory requirements for approving educational on-the-job training programs for qualified veterans who are asking to receive federal veteran financial support.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2276B**. A public hearing was held on February 25, 2003. No written or oral comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement 38 CFR 21.4261 and 21.4262.

These amendments will become effective May 7, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [51.1 to 51.4] is being omitted. These amendments are identical to those published under Notice as **ARC 2276B**, IAB 2/5/03.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

# ARC 2376B

# EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 52, "Approval of Educational Institutions for the Education and Training of Eligible Veterans Under the Veteran's Readjustment Act of 1966 as Amended," Iowa Administrative Code.

The amendments update the rules governing approval of educational institutions by Department of Education staff and provide the statutory requirements for approving programs at educational institutions for qualified veterans who are asking to receive federal veteran financial support.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2277B**. A public hearing was held, and no written or oral comments were received. In rule 281—52.1(256), language was added to specify the Higher Learning Commission of the North Central Association of Colleges and Schools. The rule now reads as follows:

"**281—52.1(256) Colleges.** All colleges, universities and community colleges accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools may have their programs considered for approval."

These amendments are intended to implement 38 CFR 21.4250-21.5259.

These amendments will become effective May 7, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 52] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 2277B**, IAB 2/5/03.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

# ARC 2396B

# EDUCATION DEPARTMENT[281]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts amendments to Chapter 83, "Teacher Quality Program," Iowa Administrative Code.

These amendments are required due to statutory language changes made during the Seventy-ninth General Assembly in 2002 Iowa Acts, chapter 1152, section 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2279B**. A public hearing was held on February 27, 2003. One written comment was received, and one person attended the public hearing. A concern was raised about the negotiation of additional teaching standards and criteria. The concern related to conflicting language in the rule. As a result, changes were made to 83.4(9) and 83.5(3)"c."

Subrule 83.4(9) now reads as follows:

"**83.4(9)** The school board shall provide comprehensive evaluations for beginning teachers using the Iowa teaching standards and criteria listed in rule 281—83.4(284). The school board, for the purposes of performance reviews for teachers other than beginning teachers, shall provide evaluations that contain, at a minimum, the Iowa teaching standards and criteria listed in rule 281—83.4(284). A local school board and its certified bargaining representative may negotiate, pursuant to Iowa Code chapter 20, additional teaching standards and criteria for use in a performance review. In any school district where there is no certified bargaining unit,

EDUCATION DEPARTMENT[281](cont'd)

additional standards and criteria may be determined by the board."

Paragraph 83.5(3)"c" now reads as follows:

"c. Provisions for the performance reviews of teachers other than beginning teachers once every three years that include, at a minimum, classroom observation of the teacher, a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and additional standards and criteria if established under subrule 83.4(9), a review of the implementation of the teacher's individual career development plan, and supporting documentation from other evaluators, teachers, parents, and students;"

These amendments will become effective May 7, 2003.

These amendments are intended to implement Iowa Code section 284.2 as amended by 2002 Iowa Acts, chapter 1152, section 7.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [83.2, 83.3(2), 83.3(3), 83.4 to 83.6] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2279B**, IAB 2/5/03.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

## ARC 2394B

# HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services rescinds Chapter 48, "Family Investment Program Eligibility Under Self-Employment Demonstration Projects," Iowa Administrative Code.

This chapter has become obsolete since Family Investment Program income and resource waivers for entrepreneurial training participants were eliminated effective April 1, 2002. Changes in the Family Investment Program over the 12 years that the federal Self-Employment Investment Demonstration Project and the Iowa Self-Employment Household Incentive Program operated made the waivers unnecessary and ineffective. The last waivers issued under the previous policy will expire by April 1, 2003.

This amendment does not provide for waivers in specified situations because there will be no participants eligible for these projects after April 1, 2003.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on January 8, 2003, as **ARC 2244B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on March 12, 2003.

This amendment is intended to implement Iowa Code section 239B.7.

This amendment shall become effective on June 1, 2003.

The following amendment is adopted.

Rescind and reserve **441—Chapter 48**.

[Filed 3/14/03, effective 6/1/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2386B

# LABOR SERVICES DIVISION[875]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner amends Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

This rule making adopts by reference amendments to the federal safety standards for exit routes, emergency action plans, and fire prevention plans adopted by the United States Occupational Safety and Health Administration on November 7, 2002.

No waiver or variance provision is included in this rule because Iowa Code chapter 88 contains a variance provision.

Adoption of this amendment is required by 29 Code of Federal Regulations 1953.23(a)(2) and Iowa Code section 88.5(1)"a." This amendment is intended to implement legislative intent and protect the safety and health of workers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2282B**. A public hearing was scheduled for February 25, 2003. No comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 88.5.

This amendment will become effective May 7, 2003.

The following amendment is adopted.

Amend rule **875—10.20(88)** by inserting at the end thereof:

67 Fed. Reg. 67961 (November 7, 2002)

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

## ARC 2389B

# NATURAL RESOURCE COMMISSION[571]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 321G.2 and 462A.3, the Natural Resource Commission hereby amends Chapter 20, "Manufacturer's Certificate of Origin," Chapter 38, "Boat Registration and Numbering," and Chapter 50, "All-Terrain Vehicles and Snowmobile Accident Reports and Registration Display," and adopts new Chapter 46, "All-Terrain Vehicle and Snowmobile Bonding," and Chapter 47, "Vessel Bonding," Iowa Administrative Code.

These amendments implement recent statutory changes related to titling and registration of boats, all-terrain vehicles

and snowmobiles. These amendments clarify and modify processes used for identification, registration and titling of boats, snowmobiles and all-terrain vehicles and establish a bonding process that will enable issuance of certificates of title and registration for boats, snowmobiles, and all-terrain vehicles for which ownership has not been conclusively established.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 30, 2002, as **ARC 2077B**. A public hearing was held on November 20, 2002. No public comments were received.

After further staff review, it was determined that new Chapter 46, "All-Terrain Vehicle and Snowmobile Bonding," and new Chapter 47, "Vessel Bonding," should be reorganized and clarified to more accurately reflect the bonding process as it had been proposed and developed with citizen input.

These amendments may impact small business.

These amendments are intended to implement Iowa Code sections 321G.2 and 462A.3.

These amendments will become effective July 1, 2003.

The following amendments are adopted.

ITEM 1. Amend subrule 20.3(7) as follows:

**20.3(7)** Type of boat.
a. Runabout.
b. Houseboat.
c. Open utility boat.
d. Cruiser.
e. Sailboat.
f. Pontoon boat.
*g. Personal watercraft.*
~~g~~ *h.* Other (describe).

ITEM 2. Rescind subrule **20.3(12)** and renumber subrules **20.3(13)** to **20.3(17)** as **20.3(12)** to **20.3(16)**.

ITEM 3. Amend rule 571—38.6(462A) as follows:

**571—38.6(462A) Procedure for application of boat registration number—content.** The following information shall be furnished, required and stated in the application for number.
1. Name and address of owner.
2. Present number (if any).
3. Hull material (wood, steel, aluminum, plastic, other).
4. Type of propulsion (outboard, inboard, other).
5. Length and width of boat.
6. Make and year built (if known).
7. Statement as to use.
8. Signature.
~~9. Does the boat have a marine toilet (Yes ….. No …..).~~
~~10~~ *9.* From whom purchased (name and address).
~~11~~ *10.* If a person is making application for a boat registration number for a used vessel that has never before been registered ~~in Iowa~~ *or titled* and the person does not have any satisfactory proof of ownership, the county recorder may issue a certificate of number for the used vessel if the applicant has provided the recorder with a signed and notarized affidavit, *on a form provided by the department,* stating that the person making the application is the lawful owner of the vessel.

ITEM 4. Amend rule 571—38.10(462A) as follows:

**571—38.10(462A) Information on certificate.** The certificate of number shall show the following:
1. Name and address of boat owner.
2. Number issued.
3. Expiration date.
4. Make, or model, or type of boat.
5. Hull material (wood, steel, aluminum, plastic, other).
6. Length of vessel.
7. Propulsion (inboard, outboard, other).
8. Maximum capacity rating (number of persons).
*9. Decal audit number.*
*10. If vessel is required to be bonded, date of bonding.*

ITEM 5. Adopt the following **new** chapter:

CHAPTER 46
ALL-TERRAIN VEHICLE AND SNOWMOBILE BONDING

**571—46.1(321G) Bond required before issuance of title or registration.** If the county recorder or the department is not satisfied as to the ownership of the snowmobile or all-terrain vehicle or that there are no undisclosed security interests in the snowmobile or all-terrain vehicle, the recorder or the department shall require completion of the following procedure prior to issuing title and registration:

**46.1(1)** Identification. The applicant shall contact the department and provide the department with identifying information in regard to the all-terrain vehicle or snowmobile. The required identifying information shall include the vehicle or snowmobile identification number and such additional information as may be requested by the department. If no vehicle or snowmobile identification number is currently affixed, the applicant shall complete the department's procedure for obtaining such number, and the assigned number shall be affixed before the applicant may proceed with the application process set forth in this chapter.

**46.1(2)** Records search. Upon receipt of sufficient identifying information from an applicant, the department shall:

a. Search the state files to determine if there is an owner of record for the all-terrain vehicle or snowmobile and if the all-terrain vehicle or snowmobile has been reported stolen; and

b. Notify the applicant, orally or in writing, in regard to whether a record of prior ownership has been located and, if so, provide the name and last-known address of the owner of record.

**46.1(3)** Examination. At any time after being contacted by the applicant and before approval of an application, the department may examine the all-terrain vehicle or snowmobile.

**46.1(4)** Notice to owner of record. If the department finds a record of prior ownership in the state files, the applicant shall notify the owner of record at the owner's last-known address by certified mail, return receipt requested. The notice shall state that the owner of record may assert the owner's right to claim the all-terrain vehicle or snowmobile. If neither the applicant nor the department receives a response from the owner of record within ten days after receipt of notice or the post office returns the notice to the applicant as undeliverable or unclaimed, the department will continue processing the bond application.

**46.1(5)** Submission of application. The applicant shall submit an application on a form provided by the department. The application shall include a statement obtained from an Iowa-registered dealer for all-terrain vehicles or snowmobiles indicating the current value of the all-terrain vehicle or snowmobile. The following documents shall be submitted with the application form:

NATURAL RESOURCE COMMISSION[571](cont'd)

a. Photographs of the all-terrain vehicle or snowmobile which show the front, rear, and one side of the all-terrain vehicle or snowmobile.

b. The written ownership document received at the time that the all-terrain vehicle or snowmobile was acquired.

c. Satisfactory proof of the all-terrain vehicle or snowmobile identification number.

d. The undeliverable or unclaimed certified letter and envelope addressed to the previous owner or the signed certified mail receipt, if a record of prior ownership was located by the department.

e. A surety bond in an amount equal to one and one-half times the current value of the all-terrain vehicle or snowmobile.

**46.1(6)** Approval. If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall forward the original application to the county recorder and notify the applicant that the all-terrain vehicle or snowmobile may be registered and titled in Iowa.

**46.1(7)** Disapproval. If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, that there is an unsatisfied security interest, or that the owner of record asserts a claim for the all-terrain vehicle or snowmobile, the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

This rule is intended to implement Iowa Code section 321G.29.

ITEM 6. Adopt the following **new** chapter:

CHAPTER 47
VESSEL BONDING

**571—47.1(462A) Bond required before issuance of title or registration.** If the county recorder or the department is not satisfied as to the ownership of a vessel or that there are no undisclosed security interests in the vessel, the recorder or the department shall require completion of the following procedure prior to issuing title or registration:

**47.1(1)** Identification. The applicant shall contact the department and provide the department with identifying information in regard to the vessel. The required identifying information shall include the hull identification number, if applicable, and such additional information as may be requested by the department. If no hull identification number is currently affixed on a vessel otherwise required by law to have a hull identification number, the applicant shall complete the department's procedure for obtaining such number, and the assigned number shall be affixed before the applicant may proceed with the application process set forth in this chapter.

**47.1(2)** Records search. Upon receipt of sufficient identifying information from an applicant, the department shall:

a. Search the state files to determine if there is an owner of record for the vessel and if the vessel has been reported stolen; and

b. Notify the applicant, orally or in writing, in regard to whether a record of prior ownership has been located and, if so, provide the name and last-known address of the owner of record.

**47.1(3)** Examination. At any time after being contacted by the applicant and before approval of an application, the department may examine the vessel.

**47.1(4)** Notice to owner of record. If the department finds a record of prior ownership in the state files, the applicant shall notify the owner of record at the owner's last-known address by certified mail, return receipt requested. The notice shall state that the owner of record may assert the owner's right to claim the vessel. If neither the applicant nor the department receives a response from the owner of record within ten days after receipt of notice or the post office returns the notice to the applicant as undeliverable or unclaimed, the department will continue processing the bond application.

**47.1(5)** Submission of application. The applicant shall submit an application on a form provided by the department. The form shall include a statement obtained from an Iowa-registered dealer for vessels indicating the current value of the vessel. The following documents shall be submitted with the application form:

a. Photographs of the vessel which show the front, rear, and one side of the vessel.

b. The written ownership document received at the time that the vessel was acquired.

c. Satisfactory proof of the hull identification number, if applicable.

d. The undeliverable or unclaimed certified letter and envelope addressed to the previous owner or the signed certified mail receipt, if a record of prior ownership was located by the department.

e. A surety bond in an amount equal to one and one-half times the current value of the vessel.

**47.1(6)** Approval. If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall forward the original application to the county recorder and notify the applicant that the vessel may be registered in Iowa.

**47.1(7)** Disapproval. If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, that there is an unsatisfied security interest, or that the owner of record asserts a claim for the vessel, the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

This rule is intended to implement Iowa Code sections 462A.5 and 462A.5A.

ITEM 7. Amend **571—Chapter 50**, title, as follows:

CHAPTER 50
ALL-TERRAIN ~~VEHICLES~~ *VEHICLE* AND SNOWMOBILE ACCIDENT REPORTS, ~~AND REGISTRATION DISPLAY~~ *TITLING, REGISTRATION AND NUMBERING*

ITEM 8. Amend 571—Chapter 50 by adopting **new** rules 571—50.2(321G), 571—50.7(321G) and 571—50.8(321G) as follows:

**571—50.2(321G) Registration and titling—required forms.** All applications, affidavits and certificates shall be completed in full on forms provided by the department.

**571—50.7(321G) Application for and placement of new or replacement vehicle identification number (VIN).**

**50.7(1)** The owner of a home-built or rebuilt all-terrain vehicle or snowmobile for which there is no legible vehicle identification number may make application on forms provided by the department for the issuance of a new VIN. The

application process shall include an inspection of the all-terrain vehicle or snowmobile by a department designee. If the application is approved, the VIN will be affixed to the vehicle in the presence of the department designee. The completed application shall then be surrendered to the county recorder.

**50.7(2)** Placement of department-issued vehicle identification number.

a. Snowmobile. The VIN shall be affixed in a conspicuous location on the outside of the tunnel.

b. All-terrain vehicle. The VIN shall be affixed to the frame under the seat.

c. Two-wheeled off-road motorcycle registered as an all-terrain vehicle. The VIN shall be affixed to the steering yoke.

**571—50.8(321G) Identification number.** The audit number on the snowmobile or all-terrain vehicle registration decal shall serve as the identification number required to be displayed as prescribed by Iowa Code section 321G.5.

ITEM 9. Amend rule 571—50.9(321G) as follows:

**571—50.9(321G) Procedure for placement of ~~validation and expiration~~ *registration* decal.** ~~The validation or expiration decal shall be placed on the identification number attached to the all-terrain vehicle or snowmobile in an upright position approximately equal distance between the last prefix letter and the first number. Letters and numbers shall be no less than one inch in height and of a color contrasting with the color of the all-terrain vehicle or snowmobile.~~

~~This rule shall apply to all all-terrain vehicles and snowmobiles, including those being used by dealers in accordance with Iowa Code section 321G.21.~~

***50.9(1)*** *Snowmobile. The decal with audit number shall be affixed to each side of the front half of the snowmobile so that the decal is clearly visible.*

***50.9(2)*** *All-terrain vehicle. The decal with audit number shall be affixed to the rear so that the decal is clearly visible.*

***50.9(3)*** *Two-wheeled off-road motorcycle registered as an all-terrain vehicle. The decal with audit number shall be affixed to the steering yoke in such a manner that the decal does not cover up the vehicle identification number and is clearly visible.*

This rule is intended to implement Iowa Code section 321G.5.

ITEM 10. Amend **571—Chapter 50** by adopting the following **new** implementation sentence at the end thereof:

These rules are intended to implement Iowa Code section 321G.3.

[Filed 3/14/03, effective 7/1/03]
[Published 4/2/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

# ARC 2366B

# PROFESSIONAL LICENSURE DIVISION[645]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby amends Chapter 100, "Funeral Directors," Iowa Administrative Code.

These amendments adopt a new definition for "cremated remains" and a new rule 645—100.3(156) regarding permanent identification tags, renumber successive rules and revise the rules covering crematories.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 8, 2003, as **ARC 2225B**. A public hearing was held on January 29, 2003, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa.

Two comments were received on the proposed amendments. The following changes have been made to the Notice of Intended Action as a result of those comments:

The definition for "cremated remains" is reworded. Responses received from the public stated that the definition should be consistent with the definition used by the National Funeral Directors Association (NFDA). A new definition is adopted and reads as follows:

"'Cremated remains' means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eye glasses that were cremated with the human remains."

The proposed amendment to the definition for "final disposition" is not adopted due to comments received on the amendment. One individual stated that it seemed contradictory to have "cremated" and "scattered" in the definition if "final disposition" means the place of disposition.

Rule 645—100.3(156) is reworded and reformatted for clarification. The rule reads as follows:

"**645—100.3(156) Permanent identification tag.**

"**100.3(1)** The funeral director who assumes possession of the dead human remains shall attach a permanent identification tag.

"**100.3(2)** The identification tag shall initially contain, at a minimum, the name of the deceased.

"**100.3(3)** Before final disposition, the identification tag shall contain the name of the deceased, date of birth, date of death and social security number of the deceased and the name and license number of the funeral home in charge of disposition.

"**100.3(4)** The identification tag shall be attached to the remains throughout the entire time the body is in the possession of the funeral home and shall remain with the human remains."

These amendments were adopted by the Board of Mortuary Science Examiners on February 13, 2003.

These amendments will become effective May 7, 2003.

These amendments are intended to implement Iowa Code chapters 147, 156 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [100.1 to 100.11] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2225B**, IAB 1/8/03.

[Filed 3/13/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

# ARC 2380B

## PUBLIC HEALTH DEPARTMENT[641]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 135K.4, the Department of Public Health hereby rescinds Chapter 26, "Backflow Prevention Assembly Tester Registration," Iowa Administrative Code, and adopts a new Chapter 26 with the same title.

These rules describe the standards for the training of backflow prevention assembly testers and the procedures for registration. The rules also establish a standard of conduct for testers and procedures for disciplinary action against testers, trainers, and certification agencies.

These rules have been reviewed by select individuals within the industry and posted on the Department's Web site. In November and January, the Department of Public Health attempted to notify all registered testers about the changes to solicit comments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2269B**. A public hearing was held on February 25, 2003. No comments were received. These rules are identical to those published under Notice.

The State Board of Health adopted these rules on March 12, 2003.

These rules will become effective May 7, 2003.

These rules are intended to implement Iowa Code chapter 135K.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 26] is being omitted. These rules are identical to those published under Notice as **ARC 2269B**, IAB 2/5/03.

[Filed 3/14/03, effective 5/7/03]
[Published 4/2/03]

[For replacement pages for IAC, see IAC Supplement 4/2/03.]

# ARC 2377B

## PUBLIC HEALTH DEPARTMENT[641]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 38, "General Provisions for Radiation Machines and Radioactive Materials"; Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials"; Chapter 40, "Standards for Protection Against Radiation"; Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials"; Chapter 42, "Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists"; and Chapter 45, "Radiation Safety Requirements for Industrial Radiographic Operations," Iowa Administrative Code.

The following itemize the adopted changes.

Items 1, 2, 6, 8, 9 to18, 22 to 25, 28, 29, 31, 33 to 35, 37 to 47, 51 and 52, 55 to 57, and 80 to 90 amend the rules to reflect current federal regulations, NRC compatibility requirements and federal X-ray standards.

Items 3, 19, 21, 48, and 50 correct terminology, wording, and references.

Items 4 and 49 delete wording regarding effective dates since the effective dates have passed.

Item 5 adds wording to clarify who is a shipper of radioactive waste.

Item 7 adds wording to allow the agency to revoke a registration for facilities that provide X-ray services.

Item 20 adds requirements for posting or labeling because of enforcement problems.

Items 26, 30, 32, and 70 add a definition rescinded from Chapter 38 and change and add wording to reflect concerns of the Board of Medical Examiners and the agency legal staff regarding healing arts screening.

Item 27 clarifies the responsibilities in the use of X-ray equipment.

Item 36 adds new language for retention of X-ray films by facilities.

Items 53 and 54 move posting and training requirements for operators to one subrule.

Items 58 to 69 add or correct wording to reflect FDA compatibility for mammography.

Items 71 to 79 reflect changes in testing for all individuals certified under Chapter 42 and training for limited diagnostic radiographers. These changes were made in response to concerns raised by educators and agency staff and to resolve enforcement issues.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2272B**. A public hearing was held on February 25, 2003. No person attended the hearing. Nine sets of written comments were received, reviewed, and incorporated as appropriate. The changes made from the Notice of Intended Action are listed below.

1. In Item 2, the amendment to the definition of "person" was not adopted based on the NRC's recommendations.

2. In Item 4, 38.8(6)"b"(3), the word "facility" was changed to "organization." "Facilities" are not allowed to offer testing. The subparagraph now reads as follows:

"(3) Each individual making application to take an examination given by the agency as a general nuclear medicine technologist as defined in 641—Chapter 42 must pay a nonrefundable fee of either $80 or $160, depending upon the testing organization chosen."

3. In Item 12, 39.4(29)"j"(2)"2," third bulleted paragraph, the cross reference was changed from 39.4(29)"j"(2)"4" to 39.4(29)"j"(2)"2."

4. In Item 13, 39.4(29)"j"(2)"5," the cross reference was changed from 39.4(20)"j"(2)"2" to 39.4(29)"j"(2)"2."

5. Item 15 in the Notice was not adopted because the amendment was submitted in error. Items 16 through 93 in the Notice have been renumbered as Items 15 through 92.

6. In Item 15, 39.4(29)"l"(3), the phrase "issued by an agreement state" was changed to "issued by the NRC or an agreement state." This allows recognition of NRC-issued licenses in Iowa. Subparagraph (3) now reads as follows:

"(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, and date of assay, and a statement that the NRC, agreement state, or this agency has approved distribution of the source or device to persons licensed to use by-product material identified in

641—41.2(136C) and 641—subrules 41.2(41) and 41.2(43), as appropriate, and to persons who hold an equivalent license issued by the NRC or an agreement state;"

7. In Item 23, 641—Chapter 40, Appendix A, superscript paragraph "c," the parenthetical "(e.g., radiodine)" was corrected to read "(e.g., radioiodine)."

8. In Item 27, 41.1(3)"a"(3)"1," the phrase "unless automatically set by the X-ray system" was added. This phrase allows the use of new technology that automatically senses the patient's size and sets the equipment accordingly. Numbered paragraph "1" now reads as follows:

"1. Patient's body part and anatomical size, or body part thickness, or age (for pediatrics), versus technique factors to be utilized unless automatically set by the X-ray system;"

9. In Item 28, 41.1(3)"a"(5)"2," the phrase "direct scatter radiation" was corrected to read "scattered primary radiation." Numbered paragraph "2" now reads as follows:

"2. The X-ray operator, other staff, ancillary personnel, and other persons required for the medical procedure shall be protected from the scattered primary radiation by protective aprons or whole body protective barriers of not less than 0.25 millimeter lead equivalent."

10. In Item 29, the introductory paragraph of 41.1(3)"a"(7) was rewritten. The changes were made after consultation with the Board of Medical Examiners, the Iowa Hospital Association, the Iowa Medical Society, and the Iowa Osteopathic Society. The introductory paragraph now reads as follows:

"(7) Individuals shall not be exposed to the useful beam unless (1) there is a previously established professional relationship with the licensed practitioner of the healing arts or a licensed registered nurse who is registered as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152, which includes a physical examination unless it is otherwise clinically appropriate; and (2) a written order for the radiation exposure has been issued by the individual in (1). The written order may be issued after the exposure that is the result of an emergency or surgery setting. This provision specifically prohibits deliberate exposure for the following purposes:"

11. In Item 33, 41.1(3)"f"(1)"2," the word "developed" was changed to "processed" so that the paragraph includes all parts of the processing procedure. The proposed sentence which would have required that the temperature of solutions in tanks be maintained within the range of 60° F to 80° F was not adopted. A sentence which requires that the specified developer temperature and immersion time be posted in the darkroom was added. This subparagraph addresses manual processing, and the posting reminds the operator of the correct procedures. Numbered paragraph "2" now reads as follows:

"2. Film shall be processed in accordance with the time-temperature relationships recommended by the film manufacturer. The specified developer temperature and immersion time shall be posted in the darkroom."

12. In Item 34, 41.1(3)"f"(2)"1," the word "developed" was changed to "processed" so that the paragraph includes all parts of the processing procedure. The proposed sentence which would have required that the specified developer temperature and immersion time be posted in the darkroom or on the automatic processor was not adopted. This sentence is not necessary for automatic processors. Numbered paragraph "1" now reads as follows:

"1. Film shall be processed in accordance with the time-temperature relationships recommended by the film manufacturer."

13. In Item 35, 41.1(3)"g," subparagraph (1), the word "recommended" was deleted. Subparagraph (1) now reads as follows:

"(1) If the facility is currently utilizing hard-copy film to store images, it may continue to use this method throughout the retention period."

In subparagraph (6), the word "medical" was changed to "film." The phrase "the records must be sent" was changed to "the film records must be sent." Paragraph 41.1(3)"g" addresses film records, not medical records. Subparagraph (6) now reads as follows:

"(6) A facility that is ceasing operations must either transfer its film records to another facility or provide the film records to its patients. A certified letter as to the location, or disposition, of the film records must be sent to notify the patients of the transferal."

14. In Item 45, 41.1(6)"g"(2), "C $kg^{-1}mAs^{-1}$ (or mR/mAs)" was changed to "mR/mAs (or C $kg^{-1}mAs^{-1}$)." This change makes the rules more uniform.

15. Item 53 in the Notice was deleted because the proposed change was unnecessary. Subsequent items were renumbered accordingly.

16. In Item 53, 41.2(14)"f," subparagraph (2), introductory paragraph, the phrase "a feeding individual" was changed to "a breast-feeding individual." This change identifies the proper individual. Subparagraph (2), introductory paragraph, now reads as follows:

"(2) A licensee shall report any dose to a nursing child that is a result of an administration of by-product material to a breast-feeding individual that:"

In subparagraph (4), the phrase "to the agency 15 days after" was changed to read "to the agency within 15 days after." This change was made for clarity. Subparagraph (4), introductory paragraph, now reads as follows:

"(4) The licensee shall submit a written report to the agency within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in 41.2(14)"f"(1) or (2)."

17. In Item 67, 41.7(5)"c"(3), the phrase "technologist only performs" was changed to read "technologist performs only." The phrase "technologist will perform" was changed to "technologist must perform." These changes were made for clarity. The cross reference was changed from 41.6(3)"b" to 41.6(3)"b"(4)"1." Subparagraph (3) now reads as follows:

"(3) If a stereotactic radiologic technologist performs only stereotactic procedures, the radiologic technologist must perform at least 100 stereotactic procedures during the 24 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date between the two. The requirements of 41.6(3)"b"(4)"1" do not apply in this case."

18. In Item 69, Chapter 41, Appendix C, an additional numbered paragraph "18" was added based on a recommendation from the public comments. Numbered paragraph "18" reads as follows:

"18. A copy of IRB for a research project or information justifying the research project."

19. In Item 70, 42.1(2), definition of "diagnostic radiographer," introductory paragraph, the phrase "dental radiographer" was changed to "podiatric or dental assistant with radiography qualification." This change was recommended by the Board of Dental Examiners. In addition, a cross reference to the Iowa Code was corrected. The introductory paragraph of the definition now reads as follows:

"'Diagnostic radiographer' means an individual, other than a licensed practitioner or podiatric or dental assistant

with radiography qualification, who applies X-radiation to the human body for diagnostic purposes while under the supervision of a licensed practitioner or registered nurse registered as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152. The types are as follows:"

In numbered paragraph "2" of the definition, the phrase "restricted to that area" was changed to "restricted to performing radiography in that area." This change was made for clarity. Numbered paragraph "2" now reads as follows:

"2. 'Limited diagnostic radiographer' applies X-radiation to not more than three of the following body parts: chest, extremities (upper and lower), spine, or sinus. This individual is restricted to performing radiography in that area of the facility specifically designed for X-ray. This individual may not perform pediatric radiography (children under three years of age) without additional training in pediatric radiography taken as a part of the basic limited training or a specifically approved training program (see 42.2(6))."

20. In Item 74, 42.2(7), the words "nuclear technologist" were corrected to read "nuclear medicine technologist." The subrule now reads as follows:

"**42.2(7)** Requirements for operators of dual imaging devices. When a unit is operated as a nuclear medicine imaging device, the operator must have a permit to practice as a nuclear medicine technologist and meet the requirements of 641—42.4(136C). When the unit is operated as a radiologic technology imaging device, the operator must have a permit to practice as a general diagnostic radiographer and meet the requirements of 641—42.3(136C). When a unit is operated in dual mode, the operator must have a permit to practice as a nuclear medicine technologist."

21. In Item 75, 42.2(8), the phrase "within six months of the date of the initial certification" was added to the first sentence. The proposed second sentence which stated that a temporary permit would be issued for six months until the examination was passed was not adopted. The phrase "temporary permit" was changed to "temporary six-month permit." The word "direct" was omitted from the phrase "direct supervision." The phrase "with the permit in the same category" was changed to "with the permit in the same or higher category." The last sentence of the noticed item was not adopted. The subrule now reads as follows:

"**42.2(8)** Examinations. All individuals seeking certification under 641—Chapter 42 must pass a written examination within six months of the date of the initial certification. The temporary six-month permit will be issued to allow the individual to practice under supervision of a licensed practitioner, an authorized user listed on a radioactive materials license, or a permitted individual with the permit in the same or higher category. The individual will be issued an annual permit upon passing the examination."

The State Board of Health adopted these amendments on March 12, 2003.

These amendments will become effective May 7, 2003.

These amendments are intended to implement Iowa Code chapter 136C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 38 to 42, 45] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2272B**, IAB 2/5/03.

[Filed 3/14/03, effective 5/7/03]
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[For replacement pages for IAC, see IAC Supplement 4/2/03.]

## ARC 2383B

# PUBLIC HEALTH DEPARTMENT[641]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.28, the Department of Public Health hereby amends Chapter 85, "Local Substitute Medical Decision-Making Boards," Iowa Administrative Code.

The rules in Chapter 85 establish the requirements and procedures for local substitute medical decision-making boards. Substitute medical decision-making boards exist to act on behalf of patients who are incapable of making their own medical care decisions when no other decision maker is available. This amendment empowers hospital ethics committees to act as local decision-making boards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2268B**. One written comment was received. The commenter was concerned about more than one substitute medical decision-making board operating in the same county. The Department added a phrase to the amendment to clarify that the county board of supervisors appoints and funds the substitute medical decision-making board.

The State Board of Health adopted this amendment on March 12, 2003.

This amendment will become effective May 7, 2003.

This amendment is intended to implement Iowa Code section 135.28.

The following amendment is adopted.

Amend subrule 85.3(1) as follows:

**85.3(1)** The county board of supervisors may establish and fund a local substitute medical decision-making board. The ~~boards~~ *board* shall include one or more representatives from each of the *following* three categories:

a. Physicians, nurses, or psychologists licensed by the state of Iowa.

b. Attorneys admitted to the practice of law in Iowa or social workers.

c. Other individuals with recognized expertise or interest in persons unable to make their own medical care decisions not included in "a" and "b" above.

*The county board of supervisors may appoint and fund a hospital ethics committee to serve as the local decision-making board provided that the composition of the committee fulfills the above requirements.*

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/03.

# ARC 2382B

## PUBLIC HEALTH DEPARTMENT[641]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.118, the Department of Public Health hereby adopts new Chapter 94, "Child Protection Center Grant Program," Iowa Administrative Code.

The rules in Chapter 94 adopt existing national standards for the level of quality and practice in order for a child protection center in Iowa to qualify for a grant. The rules provide definitions, goals, eligibility, and grant criteria.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2003, as **ARC 2267B**. No written or oral comments were received. These rules are identical to those published under Notice of Intended Action.

The State Board of Health adopted these rules on March 12, 2003.

These rules will become effective on May 7, 2003.

These rules are intended to implement Iowa Code section 135.118.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 94] is being omitted. These rules are identical to those published under Notice as **ARC 2267B**, IAB 2/5/03.

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